STATUTES OF CALIFORNIA

1991–92

REGULAR SESSION

1991 CHAPTERS

CHAPTER 1

An act to amend Section 26506.2 of, and to repeal Section 26506.5 of, the Health and Safety Code, relating to the Sherman Food, Drug, and Cosmetic Law, and, declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 26506.2 of the Health and Safety Code is amended to read:

26506.2. A registration form provided by the department shall be completed annually and accompanied by a nonreturnable registration fee. The registration or renewal of registration shall set forth all applicable information called for by the registration form.

The fee for registration or renewal of registration shall be as follows:

Holding Food Only:

Size of Establishment	Fee
0 - 10,000 square feet	$250
Over 10,000 square feet	375

Manufacturing or Packing Food:

Number of Employees	Size of Establishment	Fee
0 - 5	0 - 5,000 square feet	$250
6 - 20	0 - 5,000 square feet	375
More than 20	0 - 5,000 square feet	500
0 - 5	Over 5,000 square feet	375
6 - 20	Over 5,000 square feet	500
More than 20	Over 5,000 square feet	625

A penalty of 1 percent per month shall be added to any registration fee not paid when due.

The fee amount shall be adjusted annually pursuant to Section 113.

SEC. 2. Section 26506.5 of the Health and Safety Code is repealed.

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

In order to ensure that processed foods reaching consumers in California are inspected under the food and safety inspection program and are free from harmful chemicals and microbes and that California's food safety program is equitably funded by industry without an adverse impact on small businesses, it is necessary that this act take effect immediately.

SEC. 4. Sections 1 and 2 of this act shall become operative January 1, 1991.

CHAPTER 2

An act to amend Sections 1010, 1011, 1012, 1014, 1015, 1016, 1017, 1019, 1022, 1023, 4025, and 25198 of, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 1010 of the Health and Safety Code is amended to read:

1010. (a) The state department may certify laboratories which perform for regulatory purposes analyses of drinking water, waste water, hazardous wastes, and contaminated soils or sediments, or any combination of these, through the issuance of certificates pursuant to this chapter. The state department may also certify laboratories which perform analyses for pesticide residues pursuant to Section 26508. Laboratory activities regulated under Section 12591 of the Food and Agricultural Code shall be exempt from certification until January 1, 1992.

(b) In any arrangement between laboratories, which involves the transfer of samples or portions of samples, the analyzing laboratory shall be identified in all sample reports and shall be the laboratory for purposes of certification.

(c) For the purposes of this chapter:

(1) "Certificate" means a certificate issued under this chapter.

(2) "Laboratory" means any facility or vehicle which is owned by a person or persons, or by a public or private entity, and which is equipped and operated to carry out analyses in any of the fields of testing listed in Section 1017.

(3) "Pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is an "economic poison" within the meaning of Section 12753 of the Food and Agricultural Code or a "pesticide" as defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(4) "Regulatory purposes" means the use of laboratory analysis required by a regulatory governmental agency for determining compliance with this section or Chapter 7 (commencing with Section 4010) of Part 1 of Division 5, Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, and Chapter 6.8 (commencing with Section 25300) of, Division 20, or

Division 7 (commencing with Section 13000) of the Water Code, or the administrative regulations adopted under any of the provisions set forth in this paragraph.

SEC. 2. Section 1011 of the Health and Safety Code is amended to read:

1011. The state department shall adopt regulations governing the administration and enforcement of this chapter. Until regulations are adopted under this chapter, regulations adopted under Sections 4025 and 25198.2 shall remain in effect. Regulations adopted by the state department under this chapter shall specify conditions for recognizing on the basis of reciprocity the certification of laboratories located outside of the State of California for activities regulated under this chapter by another state or by an agency of the United States government. Certification by another jurisdiction may be recognized for purposes of this chapter with regard to one or several program activities, including, but not limited to, onsite inspections, the analysis of performance evaluation samples, or the evaluation of personnel qualifications.

SEC. 3. Section 1012 of the Health and Safety Code is amended to read:

1012. (a) The state department may adopt regulations for the following:

(1) Quality assurance programs in effect at the laboratory.

(2) Laboratory facilities.

(3) Methods.

(4) Equipment.

(5) Proficiency evaluation.

(b) A certificate shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(1) The owner sells or otherwise transfers the ownership of the laboratory, except that the certificate shall remain in force 90 days, if the state department receives written assurance and appropriate documentation within 15 days after the change has occurred that one or more of the conditions in subdivision (c) are met. The state department shall accept or reject the assurance in writing within 30 days after it has been received.

(2) There is a change in the location of the laboratory (except a mobile laboratory) or structural alteration which may affect adversely the quality of analysis in the fields of testing for which the laboratory has been granted a certificate or is seeking a certificate, without prior written notification to the state department.

(3) The certificate holder surrenders the certificate to the state department.

(c) Upon change of ownership of a laboratory, the state department may extend a certificate to the expiration date of the original certificate upon written assurance by the new owner that the operation of the laboratory will continue so as not to adversely affect the conditions regulated by this chapter.

(d) The state department shall be notified in writing within 15

days whenever there is a change of director or other person in charge of a laboratory certified under this chapter. The notification shall include documentation of the qualifications of the new director or other person in charge of the laboratory.

SEC. 5. Section 1015 of the Health and Safety Code is amended to read:

1015. (a) Upon the filing of an application for certification and after a finding by the state department that there is full compliance with this chapter and rules and regulations adopted under this chapter, the state department shall issue to the owner a certificate in the fields of testing identified in Section 1017.

(b) The state department shall deny or revoke a certificate if it finds any of the following:

(1) The laboratory fails to report acceptable results in the analysis of performance evaluation samples.

(2) The laboratory fails to pass an onsite inspection.

(3) The laboratory is not in compliance with any other provision of this chapter or regulations adopted under this chapter.

(c) Provided that there is compliance with all other provisions of this chapter, a certificate may be restricted by the state department to the fields of testing of Section 1017 or subgroups thereof as defined by regulation for which acceptable results have been produced and onsite inspection was passed.

(d) Upon the filing of a complete application for a certificate pursuant to subdivision (a), the state department may issue an interim certificate pending the completion of onsite inspection and an analysis of performance evaluation samples. An interim certificate shall be nonrenewable and shall remain in effect until a certificate is either granted under subdivision (a) or denied under subdivision (b), but not later than one year after the date of issuance of the interim certificate.

SEC. 6. Section 1016 of the Health and Safety Code is amended to read:

1016. Upon denial of any application for a certificate, or revocation of a certificate, the state department shall immediately notify the applicant by certified mail, return receipt requested, of the denial and the reasons for the denial. Within 20 days of receipt, the applicant may present the state department with a written petition for a hearing. Upon receipt in proper form by the state department, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the state department has all the powers granted therein.

SEC. 7. Section 1017 of the Health and Safety Code is amended to read:

1017. (a) At the time of application and annually thereafter, from the date of the issuance of the certificate, a laboratory shall pay an annual certification fee. The fee shall consist of a basic nonrefundable fee of eight hundred seventy-nine dollars ($879) and

an additional fee of three hundred ninety-six dollars ($396) for certification in each of the following fields of testing for which accreditation is sought: (1) microbiology of drinking water and waste water, (2) inorganic chemistry and physical properties of drinking water excluding toxic chemical elements, (3) analysis of toxic chemical elements in drinking water, (4) organic chemistry of drinking water (measurement by gc/ms combination), (5) organic chemistry of drinking water (excluding measurements by gc/ms combination), (6) radiochemistry, (7) shellfish sanitation, (8) aquatic toxicity bioassays, (9) physical properties testing of hazardous waste, (10) inorganic chemistry and toxic chemical elements of hazardous waste, (11) extraction tests of hazardous waste, (12) organic chemistry of hazardous waste (measurement by gc/ms combination), (13) organic chemistry of hazardous waste (excluding measurements by gc/ms combination), (14) bulk asbestos analysis, (15) substances regulated under the California Safe Drinking Water and Toxic Enforcement Act and not included in other listed groups, (16) waste water inorganic chemistry, nutrients, and demand, (17) toxic chemical elements in waste water, (18) organic chemistry of waste water (measurements by gc/ms combination), (19) organic chemistry of waste water (excluding measurements by gc/ms combination), (20) inorganic chemistry and toxic chemical elements of pesticide residues in food, (21) organic chemistry of pesticide residues in food (measurement by gc/ms combination), (22) organic chemistry of pesticide residues in food (excluding measurement by gc/ms combination), (23) operation of a mobile laboratory in any one of the above fields of testing in addition to activity in the same field of testing in a certified stationary laboratory under the same owner.

Fees for certification in a specified field of testing may be refunded if the state department nullifies the application due to the failure by the laboratory to complete the application process in the time and manner prescribed by regulations.

(b) In addition to the payment of certification fees, laboratories located outside the State of California shall reimburse the state department for travel and per diem necessary to perform onsite inspections.

(c) If reciprocity with another jurisdiction is established by regulation as described in Section 1011, the regulations may provide for the waiver of certification fees for program activities considered equivalent.

(d) Fees collected under this section shall be adjusted annually as specified in Section 113. The adjustment shall be rounded to the nearest whole dollar. It is the intent of the Legislature that the programs operated under this chapter be fully fee-supported.

(e) State and local government-owned laboratories in California established under Section 1000 or performing work only in a reference capacity as a reference laboratory are exempt from the payment of the fee prescribed under subdivision (a).

(f) In addition to the payment of certification fees, laboratories certified or applying for certification in fields of testing (20), (21), or (22) under subdivision (a) shall pay the state department a fee of four hundred dollars ($400) for the preparation and handling of each performance evaluation sample set.

(g) For the purpose of this section, a reference laboratory is a laboratory owned and operated by a governmental regulatory agency for the principal purpose of analyzing samples referred by other laboratories for confirmatory analysis. Reference laboratories carry out quality assurance functions relative to other laboratories and may carry out unusual, highly specialized, and difficult analyses not generally available through commercial laboratories, and a limited amount of routine analyses, for regulatory purposes only, and without assessing per-sample fees for the services.

SEC. 8. Section 1019 of the Health and Safety Code is amended to read:

1019. (a) Any laboratory which is certified or has applied for certification, or for renewal of certification under this chapter, shall analyze performance evaluation samples provided directly or indirectly by the state department. The state department shall have the authority to contract with third parties for the provision of performance evaluation samples. The samples shall be tested by the laboratory according to methods specifically approved for this purpose by the United States government or the state department, or alternate methods of demonstrated adequacy or equivalence, as determined by the state department. Performance evaluation sample sets shall be provided not less than twice, nor more than four times, a year to each certified laboratory which performs analyses of food for pesticide residues.

(b) The state department may provide directly or indirectly performance evaluation samples to a laboratory for the purpose of determining compliance with this chapter with or without identifying the state department.

(1) When the state department identifies itself, all of the following shall apply:

(A) The results of the testing shall be submitted to the state department on forms provided by the state department on or before the date specified by the state department, and shall be used in determining the competency of the laboratory.

(B) There shall be no charge to the state department for the analysis.

(2) When the state department does not identify itself, the state department shall pay the price requested by the laboratory for the analyses.

SEC. 9. Section 1022 of the Health and Safety Code is amended to read:

1022. (a) Any person who operates a laboratory which performs work, for which certification is required under Section 4025, 25198, 25298.5, 25358.4 or 26508, or Section 13176 of the Water Code, without

holding an unrevoked certificate to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the state department.

(b) When the state department determines that any person has engaged in, or is engaged in, any act or practice which constitutes a violation of this chapter, or any regulation or order issued or adopted thereunder, the state department may bring an action in the superior court for an order enjoining these practices or for an order directing compliance and affording any further relief which may be required to ensure compliance with this chapter.

SEC. 10. Section 1023 of the Health and Safety Code is amended to read:

1023. (a) Any person who knowingly makes any false statement or representation in any application, record, or other document submitted, maintained, or used for purposes of compliance with this chapter, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Any person who operates a laboratory for purposes specified pursuant to Section 4025, 25198, 25298.5, 25358.4 or 26508, or Section 13176 of the Water Code which requires a certificate without possessing a certificate issued by the department pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation, or, for continuing violations, for each day that violation continues.

(c) A laboratory that advertises or holds itself out to the public or its clients as having been issued a certificate for any of the fields of testing referred to in Section 1017 without having a valid and current certificate in each field of testing identified by the advertisement or other representation may be liable, as determined by the court, for a civil penalty not to exceed one thousand dollars ($1,000) or, for continuing violations, for each day that violation continues.

(d) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

SEC. 11. Section 4025 of the Health and Safety Code is amended to read:

4025. (a) No laboratory, other than a laboratory operated by the state department, shall perform tests required pursuant to this chapter for any public water system without first obtaining a certificate issued by the state department pursuant to Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1, except that laboratories previously issued a certificate under this section shall be deemed certified until certification under Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 has been either granted or denied, but not beyond the expiration date shown on the certificate

previously issued under this section.

(b) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the state department requires certification pursuant to this section, unless the laboratory holds a valid certificate.

SEC. 12. Section 25198 of the Health and Safety Code is amended to read:

25198. (a) The analysis of any material required by this chapter shall be performed by a laboratory certified by the department pursuant to Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1, except that laboratories previously issued a certificate under this section shall be deemed certified until the time that certification under Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 has been either granted or denied, but not beyond the expiration date shown on the certificate previously issued under this section.

(b) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the department requires certification pursuant to this chapter, unless the laboratory holds a valid certificate.

SEC. 13. Sections 1 to 12, inclusive of this act, shall become operative January 1, 1991.

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

In order to verify laboratory competency in the analyses of environmental samples under the Laboratory Certification Program and thereby protect the health and safety of the residents of California and to ensure that California's laboratory certification program is equitably funded by the laboratories being certified, it is necessary that this act take effect immediately.

CHAPTER 3

An act to amend Section 662 of the Public Resources Code, relating to mining and geology, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 662 of the Public Resources Code is amended to read:

662. (a) One member of the board shall be a registered geologist with background and experience in mining geology; one member

shall be a mining engineer with background and experience in mining minerals in California; one member shall have background and experience in groundwater hydrology, water quality, and rock chemistry; one member shall be a representative of local government with background and experience in urban planning; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be a registered geologist, registered geophysicist, registered civil engineer, or registered structural engineer with background and experience in seismology; one member shall be a landscape architect with background and experience in soil conservation or revegetation of disturbed soils; one member shall have background and experience in mineral resource conservation, development, and utilization; and one member shall not be required to have specialized experience.

(b) All members of the board shall represent the general public interest.

SEC. 2. Section 1 shall become operative January 1, 1991.

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 apply the qualifications required by this act to a vacant position on the State Mining and Geology Board, it is necessary that this act take effect immediately.

CHAPTER 4

An act to add Section 597.1 to the Penal Code, relating to cruelty to animals, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990. Filed with Secretary of State December 13, 1990.]

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

SECTION 1. Section 597.1 is added to the Penal Code, to read:

597.1. (a) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health

or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, which is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county,

or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or for services which he or she provides pursuant to this subdivision.

(d) An animal control agency which takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal for a 72-hour period from the time of possession, and those records shall be available for inspection by the public upon request.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal

properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, the charges for the seizure and care of the animal shall be a lien on the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is

incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.

(k) Upon the conviction of a person charged with a violation of this section, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer for proper disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(*l*) This section shall be operative in a public agency or a humane society under the jurisdiction of the public agency, or both, only if the governing body of that public agency, by ordinance or resolution, determines that this section shall be operative in the public agency or the humane society and that Section 597f shall not be operative.

SEC. 2. This act is not intended, nor shall it be construed in any way, to affect Section 31101 or 31752 of the Food and Agricultural Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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 shall become operative on January 1, 1991.

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:

To immediately preserve and protect the welfare of animals which urgently require safeguarding from abusive or neglectful treatment, and to protect the health of persons which may come into contact with those diseased or injured animals, it is necessary that this act take effect immediately.

CHAPTER 5

An act to amend Sections 11106, 12026.2, 12028, 12070, 12071, 12072, 12078, 12082, and 12083 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990. Filed with Secretary of State December 13, 1990.]

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

SECTION 1. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealed weapons, dealers' records of sales of firearms, reports provided pursuant to subdivision (a) of Section 12078, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

A violation of this subdivision is a misdemeanor.

SEC. 2. Section 12026.2 of the Penal Code is amended to read:

12026.2. (a) Section 12025 does not apply to or affect any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to or directly from that production or event.

(2) The possession of a firearm in a locked container by a member

of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to and coming directly from those meetings.

(3) The transportation of a firearm by a participant when going directly to or coming directly from a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person mentioned in Section 12026, directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to or coming directly from a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business.

(7) The transportation of a firearm by a person when going directly to or coming directly from a gun show, swap meet, or similar event to which the public is invited, for the purposes of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to or coming directly from a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to or coming directly from a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to or coming directly from a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

SEC. 3. Section 12028 of the Penal Code is amended to read:

12028. (a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the vehicle or the carrier of any of the weapons mentioned in Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) A firearm of any nature used in the commission of any misdemeanor as provided in this code or any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant, or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county or the Commissioner of the Department of the California Highway Patrol. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Section 12071 to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c) the weapon shall in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization

of personnel who maintain files and security of those weapons, be destroyed so that it can no longer be used as such weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section does not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of in the Fish and Game Code or any regulation adopted pursuant thereto, or which is forfeited pursuant to Section 5008.6 of the Public Resources Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

SEC. 4. Section 12070 of the Penal Code is amended to read:

12070. (a) No person shall engage in the business of selling, leasing, transferring, offering, or exposing for sale, lease, or transfer of firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) As used in this article, engaging in the business of selling, leasing, or transferring of firearms does not include any of the following:

(1) The sale, lease, or transfer of any firearm by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) The sale, lease, or transfer of firearms by a person acting pursuant to subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer, offering, exposing for sale, lease, or transfer of firearms.

(c) As used in this section, "infrequent" means:

(1) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

SEC. 5. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant, licenses permitting the licensee to sell at retail within the city,

county, or city and county, any firearms. If a license is granted, it shall be either in the form of a regulatory or business license or in the form prescribed by the Attorney General. The license shall be valid for not more than one year from the date of issue.

(2) The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to paragraph (1) upon demonstration by the person that he or she currently is licensed under paragraph (1). The department shall adopt regulations to implement this license program. The full costs incurred by the department in administering this program shall be recovered by fees assessed on persons who apply for a statewide gun show license.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) All persons who receive a statewide gun show license shall publicly display the license at any gun show at which the licensee conducts activities as authorized pursuant to subparagraph (B) of paragraph (1).

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

SEC. 6. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for

the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through a licensed dealer pursuant to Section 12082.

(e) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 7. Section 12078 of the Penal Code is amended to read:

12078. (a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or

transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the seller or transferor at the time of purchase and transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, where a peace officer is receiving the firearm, and a dealer is not the seller or transferor, or is not otherwise the person responsible for the delivery of the firearm, the peace officer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where a dealer is the seller, transferor, or otherwise responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077. The reports which peace officers shall complete shall be provided to them by the department at cost. All receipts from the sale of these forms shall be deposited into the Dealer's Record of Sale Special Account of the General Fund. No report need be submitted to the Department of Justice where a peace officer receiving the firearm received it from his or her employer in accordance with the applicable rules, regulations, or procedures of the employer.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to the infrequent transfers of firearms by gift, bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, immediate family member includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Section 12070 shall not apply to the sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Chapter 18 of the United States Code and the regulations issued pursuant thereto to dealers licensed pursuant to Section 12071.

(g) Subdivision (d) of Section 12072 shall not apply to the

infrequent sale or transfer of a firearm, other than pistols, revolvers, or other firearms capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

SEC. 8. Section 12082 of the Penal Code is amended to read:

12082. A person shall complete any sale or other transfer of a firearm through a dealer licensed pursuant to Section 12071 in accordance with this section in order to comply with the provisions of subdivision (d) of Section 12072. The Attorney General shall adopt regulations under this section to allow the seller or transferor and the purchaser or transferee to complete a sale or other transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and of Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of records. The register shall state the name and address of the seller or transferor of the firearm in addition to any other information required by Section 12077. The seller or transferor shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee, if it is not prohibited, in accordance with the provisions of subdivision (c) of Section 12072. If the dealer cannot legally transfer the firearm to the purchaser or transferee, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller. The dealer shall not return the firearm to the seller or transferor when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee may be required by the dealer to pay a fee not to exceed the actual cost of processing the application, which shall not exceed two dollars ($2), plus the amount of a fee which the Department of Justice may charge pursuant to subdivision (d) of Section 12076 and plus a fee not to exceed five dollars ($5) to the dealer for processing the transfer or sale. The department may charge only one fee pursuant to this section in meeting its obligations pursuant to Section 12076. The fee that the department may charge is the fee that would be applicable pursuant to subdivision (d) of Section 12076, if the dealer was selling, transferring, or delivering a firearm to a purchaser or transferee without any other parties being involved in the transaction.

A violation of this section by a dealer is a misdemeanor.

SEC. 9. Section 12083 of the Penal Code is amended to read:

12083. (a) The Department of Justice shall undertake a feasibility study concerning proposed changes in firearm statutes, particularly as they relate to this article, which would accomplish the following:

(1) Introduce a system whereby licensed firearm dealers may utilize an 800 hotline telephone number or a 976 telephone number in order to contact the Department of Justice to determine the eligibility of a person to purchase and possess a firearm.

(2) Reduce the current 15-day waiting period to a lesser waiting period as the result of the introduction of automation, computerization, or other devices or means which have increased efficiency in screening the eligibility of persons to purchase and possess firearms.

(3) Establish a licensing procedure allowing individuals who possess particular kinds of identification and have certain personal historical background, including, for example, completion of a hunter safety course, to obtain a firearm without being subject to a background check for eligibility.

(4) If the federal government develops a system for immediate and accurate identification of felons, as described in Section 6213 of Public Law 100-690, establish a means for the Department of Justice to utilize that system.

(5) Implement a system whereby a firearm purchaser utilizes a record check similar to those checks utilized by private credit reporting agencies.

(6) Incorporate private entities into the background check process by the use of bonding requirements, employing private credit reporting procedures, and by adopting similar methods and procedures.

(7) Revise existing statutory licensing requirements in order that local licensing authorities implement essentially uniform licensing procedures under Section 12071.

(8) Revise the intrafamilial firearms exemption as created by subdivision (c) of Section 12078 to determine whether the exemption needs to be clarified.

(b) The Department of Justice shall provide the results of this feasibility study to the Legislature on or before July 1, 1991.

(c) The intent of this section is to encourage the rapid development and deployment of an alternative background check system by which it may be determined if prospective purchasers of all firearms are ineligible to purchase or possess a firearm. The full deployment of an alternative background check system is highly desirable and may greatly reduce, if not eliminate, the need for California to administer the existing background check system, as authorized by this article.

SEC. 10. 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. 11. This act shall become operative on January 1, 1991.

SEC. 12. This bill is an urgency statute necessary for the immediate preservation of the public peace, 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 ambiguities in existing firearms statutes, it is necessary that this act take immediate effect.

CHAPTER 6

An act to add Sections 9953 and 11713.6 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990 Filed with Secretary of State December 13, 1990.]

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

SECTION 1. Section 9953 is added to the Vehicle Code, to read:

9953. Every manufacturer of a new motor vehicle sold in this state which, as equipped, may not be operated with tire chains shall indicate that fact in the owner's manual for the vehicle or other written material provided by the manufacturer regarding the vehicle.

SEC. 2. Section 11713.6 is added to the Vehicle Code, to read:

11713.6. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to fail to disclose in writing to the buyer of a new motor vehicle, that the vehicle, as equipped, may not be operated on a highway signed for the requirement of tire chains if the owner's manual or other material provided by the manufacturer states that the vehicle, as equipped, may not be operated with tire chains. The dealer shall obtain the signature of the buyer to acknowledge the disclosure required by this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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. Sections 1 and 2 of this act shall become operative on January 1, 1991.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that buyers of new motor vehicles that may not be operated, as equipped, with tire chains become aware as soon as possible that the vehicles may not be driven under winter conditions which require the use of chains, it is necessary that this act take effect immediately.

CHAPTER 7

An act to amend Section 2675 of, and to add Section 6409.5 to the Labor Code, relating to occupational health and safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990. Filed with Secretary of State December 13, 1990]

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

SECTION 1. Section 2675 of the Labor Code is amended to read:

2675. (a) For purposes of enforcing this part and Sections 204, 209, 212, 221, 222, 222.5, 223, 226, 227, and 227.5, Chapter 2 (commencing with Section 300) and Article 2 (commencing with Section 400) of Chapter 3 of Part 1 of this division, Sections 1195.5, 1197, 1197.5, and 1198, Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200), every person engaged in the business of garment manufacturing shall register with the commissioner.

The commissioner shall not permit any person to register, nor shall the commissioner allow any person to renew registration, until all the following conditions are satisfied:

(1) The person has executed a written application therefor in a form prescribed by the commissioner, subscribed and sworn by the person, and containing:

(A) A statement by the person of all facts required by the commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to engage in the business of garment manufacturing if the registration is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed business of garment manufacturing together with the amount of their respective interests, except that in the case of a publicly traded corporation a listing of principal officers shall suffice.

(2) The commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) In the case of a person who has been cited and penalized within the prior three years under this part, the person has deposited or has on file a surety bond in the sum and form that the

commissioner deems sufficient and adequate to insure future compliance, not to exceed five thousand dollars ($5,000). The bond shall be payable to the people of California and shall be for the benefit of any employee of a registrant damaged by the registrant's failure to pay wages and fringe benefits, or for the benefit of any employee of a registrant damaged by a violation of Section 2677.5.

(4) The person has documented that a current workers' compensation insurance policy is in effect for the employees of the person seeking registration.

(5) The person has paid an initial registration fee to the commissioner not to exceed one hundred fifty dollars ($150), or in the case of renewal of registration, a fee not to exceed one hundred dollars ($100).

(b) At the time a certificate of registration is originally issued or renewed, the commissioner shall provide related and supplemental information regarding business administration and applicable labor laws. This related and supplemental information, as much as reasonably possible, shall be provided in the primary language of the garment manufacturer. The information shall include all subject matter on which persons seeking registration are examined pursuant to subdivision (c), and shall be available to persons seeking registration prior to taking this examination.

(c) Effective January 1, 1991, persons seeking registration under this section for the first time, and persons seeking to renew their registration pursuant to subdivision (f), shall comply with all of the following requirements:

(1) Demonstrate, by an oral or written examination, or both, knowledge of the pertinent laws and administrative regulations concerning garment manufacturing as the commissioner deems necessary for the safety and protection of garment workers.

(2) Demonstrate, by an oral or written examination, or both, knowledge of state laws and regulations relating to occupational safety and health which shall include, but not be limited to, the following:

(A) Section 3203 of Title 8 of the California Code of Regulations (Injury Prevention Program).

(B) Section 3220 of Title 8 of the California Code of Regulations (Emergency Action Plan).

(C) Section 3221 of Title 8 of the California Code of Regulations (Fire Prevention Plan).

(D) Section 6151 of Title 8 of the California Code of Regulations which provides for the placement, use, maintenance, and testing of portable fire extinguishers provided for the use of employees.

(3) Sign a statement which provides that he or she shall do all of the following:

(A) Comply with those regulations specified in paragraph (2) which establish minimum standards for securing safety in all places of employment.

(B) Ensure that all employees are made aware of the existence of

these regulations and any other applicable laws and are instructed in how to implement the Injury Prevention Program, Emergency Action Plan, and Fire Prevention Plan, specified in paragraph (2), in the workplace.

(C) Ensure that all employees are instructed in the use of portable fire extinguishers.

(D) Post the Injury Prevention Program, Emergency Action Plan, and Fire Prevention Plan, specified in paragraph (2), in a prominent location in the workplace.

(d) The Division of Occupational Safety and Health shall assist the Division of Labor Standards Enforcement in developing the examination which shall include, but not be limited to, the state's occupational safety and health laws specified in paragraph (2) of subdivision (c).

(e) The commissioner shall charge a fee to persons taking the examinations required by subdivision (c) which is sufficient to pay for costs incurred in administering the examinations.

(f) A person seeking renewal of registration shall be required to take both of the examinations, and sign the statement, specified in subdivision (c). However, once a renewal of registration has been granted based on these examinations, subsequent examinations shall only be required at the discretion of the commissioner if, in the preceding year, the registrant has been found to be in violation of subdivision (a) or any of the sections enumerated in that subdivision.

(g) Proof of registration shall be by an official Division of Labor Standards Enforcement registration form. Every person, as set forth in Section 2671, shall post the registration form where it may be read by employees during the workday.

SEC. 2. Section 6409.5 is added to the Labor Code, to read:

6409.5. (a) Whenever any local public fire agency has knowledge that a place of employment where garment manufacturing operations take place contains fire or safety hazards for which fire and injury prevention measures have not been taken in accordance with local fire and life safety ordinances, the agency may notify the Division of Occupational Safety and Health. This referral shall be made only after the garment manufacturing employer has been given a reasonable amount of time to correct violations.

(b) Whenever the Division of Occupational Safety and Health has knowledge or reasonable suspicion that a place of employment where garment manufacturing operations take place contains fire or safety hazards for which fire and injury prevention measures have not been taken in accordance with local fire and life safety ordinances, the division shall notify the appropriate local public fire agency.

(c) Whenever the Division of Occupational Safety and Health receives a referral by a local public fire agency pursuant to subdivision (a) which informs the division that a place of employment where garment manufacturing operations take place is

not safe or is injurious to the welfare of any employee, it shall constitute a complaint for purposes of Section 6309 and shall be investigated.

(d) Whenever a local public fire agency receives a referral by the Division of Occupational Safety and Health pursuant to subdivision (b) which informs the local public fire agency that a place of employment where garment manufacturing operations take place is not safe or is injurious to the welfare of any employee, the local public fire agency may investigate the referral at its discretion.

(e) (1) If the Division of Occupational Safety and Health acquires knowledge that the garment manufacturing employer is not currently registered, it shall notify the Division of Labor Standards Enforcement.

(2) Local public fire agencies may make referrals of individuals not registered as garment manufacturers to the Division of Labor Standards Enforcement.

(3) Whenever the Division of Labor Standards Enforcement is informed by the Division of Occupational Safety and Health or by a local public fire agency that a garment manufacturing employer is unregistered, the Division of Labor Standards Enforcement shall take measures it deems appropriate to obtain compliance.

SEC. 3. Sections 1 and 2 of this act shall become operative on January 1, 1991.

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

In order to protect public health and safety from hazards created by garment manufacturing operations which are not in compliance with state laws and regulations and local fire and life safety ordinances, it is necessary that this act take effect immediately.

CHAPTER 8

An act to repeal, add, and repeal Section 74.5 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990. Filed with Secretary of State December 13, 1990.]

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

SECTION 1. Section 74.5 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 74.5 is added to the Revenue and Taxation Code, to read:

74.5. (a) For purposes of paragraph (4) of subdivision (c) of

Section 2 of Article XIII A of the California Constitution, "newly constructed" and "new construction" does not include seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies, to an existing building or structure.

(b) For purposes of this section:

(1) "Seismic retrofitting improvements" means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. "Seismic retrofitting improvements" also means either structural strengthening or providing the means necessary to reduce seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. "Seismic retrofitting improvements" shall not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure.

(2) "Improvements utilizing earthquake hazard mitigation technologies" means improvements, to existing buildings identified by a local government as being hazardous to life in the event of an earthquake, that utilize earthquake hazard mitigation technologies approved by the State Architect pursuant to Section 16102 of the Health and Safety Code.

(c) The property owner, primary contractor, civil engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. Upon completion of the project, the building department shall report the value of those portions of the project that are seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies to the county assessor.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor on or before the following April 15.

(e) The exclusion from "newly constructed" and "new construction" under this section is not applicable to seismic safety reconstruction and improvements that qualify for the exclusion provided in subdivision (d) of Section 70.

(f) This section shall only apply to projects completed on or after January 1, 1991, and completed on or before July 1, 2000.

(g) It is the intent of the Legislature in establishing the repeal

date of this section in subdivision (h) to encourage the timely improvements of seismically unsafe structures and to not extend these provisions beyond July 1, 2000.

(h) This section shall remain in effect only until July 1, 2000 and as of that date is repealed.

SEC. 3. This act shall become operative on January 1, 1991.

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 that Senate Constitutional Amendment 33 of the 1989–90 Regular Session, approved by the voters at the November 6, 1990, general election, be fully and properly implemented as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 9

An act to add Section 19867 to, and to add Article 8 (commencing with Section 21410) to Chapter 9 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to the Public Employees' Long-Term Care Act, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990. Filed with Secretary of State December 13, 1990]

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

SECTION 1. Section 19867 is added to the Government Code, to read:

19867. (a) The Legislature finds and declares that the interests of the state would be served by the Department of Personnel Administration meeting and conferring with the exclusive representatives of the various bargaining units to discuss the establishment of long-term care benefits for state employees.

(b) If long-term care insurance plans are not available to state

employees on or before January 1, 1993, state employees may enroll in any long-term care insurance plans offered by the Board of Administration of the Public Employees' Retirement System.

(c) If this section is in conflict with a memorandum of understanding entered into pursuant to Section 3517.5, the memorandum of understanding shall prevail and control without further legislative action, except that if the prevailing provisions of a memorandum of understanding require the expenditure of funds, these provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Article 8 (commencing with Section 21410) is added to Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 8. Long-Term Care

21410. This article may be cited as the Public Employees' Long-Term Care Act.

21411. (a) The board shall contract with carriers offering long-term care insurance plans and enter into health care service plan contracts covering long-term care.

The long-term care insurance plans and health care service plan contracts covering long-term care shall be made available on or before January 1, 1992, and periodically thereafter during open enrollment periods determined by the board.

(b) The board shall award contracts to carriers who are qualified to provide long-term care benefits, and may develop and administer self-funded long-term care insurance plans. The board may offer one or more long-term care insurance plans or health care service plan contracts covering long-term care and may offer service or indemnity-type plans.

(c) The long-term care insurance plans and health care service plan contracts covering long-term care shall include home, community, and institutional care and shall, to the extent determined by the board, provide substantially equivalent coverage to that required under Chapter 2.6 (commencing with Section 10230) of Part 2 of Division 2 of the Insurance Code, if the carrier has been approved by the Department of Corporations pursuant to the Knox-Keene Health Care Service Plan Act (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(d) Active and retired members and annuitants of the Public Employees' Retirement System, their spouses and parents, shall be eligible to enroll provided they meet the eligibility and underwriting criteria established by the board, except that enrollment of state employees shall be subject to Section 19867.

(e) The board shall establish eligibility criteria for enrollment, establish appropriate underwriting criteria for potential enrollees, define the scope of covered benefits, define the criteria to receive

benefits, and set any other standards as needed.

(f) The full cost of enrollment in a long-term care insurance plan or in health care service plan contracts covering long-term care shall be paid by the enrollees.

(g) The long-term care insurance plans and health care service plan contracts covering long-term care shall not become part of, or subject to, the retirement or health benefits programs administered by the system.

21412. The board shall consult with employer and employee representatives of the state and local government entities for whom the board administers retirement benefits. The board and each employer is authorized to recover the administrative costs of the long-term care insurance program from insurance carriers and premiums paid by enrollees. Prior to implementation of the proposed long-term care insurance plans, the board shall submit a report on those plans to the Legislature.

SEC. 3. There is hereby appropriated from the Public Employees' Retirement Fund, the sum of one hundred twenty-five thousand dollars ($125,000) as a loan to the Board of Administration of the Public Employees' Retirement System for expenditure in fiscal year 1990–91 for developing long-term care insurance plans and health care service plan contracts covering long-term care for participants in the system. In developing the long-term care program, the board shall also determine whether expanding the participation in the plans would benefit members and annuitants by reducing premiums and creating a viable risk pool.

The board shall include in the costs of enrollment a reasonable amount to recover and reimburse the fund for the amount appropriated by this section and the interest which would have accrued to that amount based upon the earnings of the fund during the 1990–91 fiscal year.

SEC. 4. Sections 1 to 3, inclusive, of this act shall become operative on January 1, 1991.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state employees have access to long-term care benefits as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 10

An act to amend, add, and repeal Sections 8670.3, 8670.40, and 8670.48 of, and to add and repeal Section 8670.38.10 of, the Government Code, relating to oil spills, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 13, 1990. Filed with Secretary of State December 13, 1990]

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

SECTION 1. Section 8670.3 of the Government Code is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) "Barges" means any relatively flat-bottomed, waterborne vessel that does not have a crew, is propelled by being pulled by another vessel, and that is constructed or adapted to carry oil in commercial quantities as cargo.

(c) "Best achievable protection" means that the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (1) the protection provided by the measures, (2) the technological achievability of the measures, and (3) the cost of the measures.

It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Crude oil" means any naturally occurring liquid

hydrocarbon at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline.

(f) "Local government" means any chartered or general law city, chartered or eneral law county, or any city and county.

(g) "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this chapter, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

(h) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

(i) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(j) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(k) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(*l*) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or facility immediately beforehand.

(D) An entity of the state or local government which acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge or oil into marine waters.

(2) "Owner" or "operator" does not include a person who,

without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility.

(3) "Operator" does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(m) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(n) "Petroleum product" means any liquid hydrocarbon at atmospheric temperature and pressure that is the product of the fractionation, distillation, or other refining or processing of crude oil and is used as, useable as, or may be refined as, a fuel or fuel blendstock, including, but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and fuels containing a blend of alcohol and petroleum.

(o) "Pipeline" means any pipeline used at any time to transport oil.

(p) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(q) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil into marine waters which is not authorized by any federal, state, or local government entity.

(r) "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(s) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(t) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(u) "Vessel" means a tanker or barge as defined in this section.

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. 1.5. Section 8670.3 is added to the Government Code, to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response

appointed by the Governor pursuant to Section 8670.4.

(b) "Barges" means any relatively flat-bottomed, waterborne vessel that does not have a crew, is propelled by being pulled by another vessel, and that is constructed or adapted to carry oil in commercial quantities as cargo.

(c) "Best achievable protection" means that the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (1) the protection provided by the measures, (2) the technological achievability of the measures, and (3) the cost of the measures.

It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

(f) "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this chapter, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

(g) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section

25270.2 of the Health and Safety Code.

(h) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(i) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(j) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(k) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or facility immediately beforehand.

(D) An entity of the state or local government which acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge or oil into marine waters.

(2) "Owner" or "operator" does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility.

(3) "Operator" does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(*l*) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(m) "Pipeline" means any pipeline used at any time to transport oil.

(n) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting

responsibility for the vessel or marine facility.

(o) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil into marine waters which is not authorized by any federal, state, or local government entity.

(p) "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(q) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(r) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(s) "Vessel" means a tanker or barge as defined in this section.

(t) This section shall become operative July 1, 1991.

SEC. 2. Section 8670.38.10 is added to the Government Code, to read:

8670.38.10. The initial payment of the fees imposed by Sections 8670.40 and 8670.48 shall be paid to the board on February 25, 1991.

This section shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

SEC. 3. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The amount of the fee shall not exceed four cents ($0.04) per barrel of crude oil or petroleum products.

(b) (1) The oil spill prevention and administration fee shall be imposed upon every person owning crude oil at the time that the crude oil is received at a marine terminal from within or outside the state, and upon every person owning petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, every operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state. The fees shall be remitted to the board by the terminal or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month. No fee shall be imposed pursuant to this section with respect to any crude oil or petroleum products if the person who would be liable for that fee,

or responsible for its collection, establishes that the fee has been collected by a terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.

(2) Every owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee imposed pursuant to this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research in prevention and control technology.

(2) To carry out studies which may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

This section shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

SEC. 3.5. Section 8670.40 is added to the Government Code, to read:

8670.40. (a) The administrator shall collect annually a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The amount of the annual assessment shall not exceed four cents ($0.04) per barrel of oil.

(b) Every marine terminal operator shall pay the oil spill prevention and administration fee for each barrel of oil delivered through the operator's marine terminal. In addition, every operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of oil transported into the state by means of pipeline operating across, under, or through the marine waters of this state. The fee for a pipeline shall not be based on the number of times an individual pipeline enters and exits marine waters nor shall the fee be collected when oil is transported within a facility, such as between

a tank facility and refinery or electric generating plant. The administrator shall develop regulations governing the fees to be assessed on pipelines.

The amount of the fee to be paid by an operator shall be established by the administrator commensurate with the risks and potential sizes of spills from the operator's marine facility.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The State Board of Equalization shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies which may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

(g) This section shall become operative July 1, 1991.

SEC. 4. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) An oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of shall be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of petroleum products transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the

number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of crude oil received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner or person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) The fees required pursuant to this section shall be collected during any period that the fund contains less than the designated amount, as defined in subdivision (e), or during which the state has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1).

(e) For purposes of this chapter, "designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000) shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (m).

(f) During any period in which the total amount in the fund exceeds the designated amount, and the moneys in the fund are not needed to pay for costs resulting from the spill of oil into marine waters or to retire any debt that the state assumed pursuant to Section 8670.53.15, the administrator shall provide refunds to each operator in proportion to the amount each operator paid into the fund.

(g) The board shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(h) The fee imposed pursuant to this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and

cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000) of financial security as authorized by subdivision (m).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(i) The interest that the state earns on the funds deposited in the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited in the Oil Spill Prevention and Administration Fund.

(j) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (h).

(k) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(*l*) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner or person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(m) The Treasurer shall purchase fifty million dollars ($50,000,000) of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a form as described in subdivision (a) of Section 8670.53.3.

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. 4.5. Section 8670.48 is added to the Government Code, to read:

8670.48. (a) Every marine terminal operator shall pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of petroleum products received at a marine terminal within this state by means of vessel from a point of origin outside this state.

(b) Every operator of a pipeline shall also pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of petroleum products transported into the state by means of pipeline.

(c) (1) Every operator of a refinery shall pay an oil spill response

fee in the amount of twenty-five cents ($0.25) for each barrel of crude oil received at a refinery within this state.

(2) The fee shall not be imposed by a refiner or person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The State Board of Equalization shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of crude oil that is transported from within this state by means of marine vessel or barge to a destination outside this state.

(e) Every operator of a pipeline shall pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of crude oil transported out of the state.

(f) The fees required pursuant to this section shall be collected during any period that the fund contains less than the designated amount, as defined in subdivision (e), or during which the state has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1).

(g) For purposes of this chapter, "designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000) shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (o).

(h) During any period in which the total amount in the fund exceeds the designated amount, and the moneys in the fund are not needed to pay for costs resulting from the spill of oil into marine waters or to retire any debt that the state assumed pursuant to Section 8670.53.15, the administrator shall provide refunds to each operator in proportion to the amount each operator paid into the fund.

(i) The State Board of Equalization shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(j) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including

damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000) of financial security as authorized by subdivision (o).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(k) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited into the Oil Spill Prevention and Administration Fund.

(*l*) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (j).

(m) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(n) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner or person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(o) The Treasurer shall purchase fifty million dollars ($50,000,000) of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a form as described in subdivision (a) of Section 8670.53.3.

(p) This section shall become operative July 1, 1991.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide necessary clarification as to the procedure for collecting fees under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act and to thereby implement the oil spill prevention and response provisions of the act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 11

An act to add Section 3381.5 to the Health and Safety Code, relating to immunization, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 16, 1990. Filed with Secretary of State December 17, 1990.]

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

SECTION 1. Section 3381.5 is added to the Health and Safety Code, to read:

3381.5. (a) The Legislature finds and declares that 1990 marks one of the worst measles epidemics in recent history and that this epidemic threatens the health and safety of our schoolaged children.

The Legislature finds and declares that, according to the Center for Disease Control and the American Academy of Pediatrics, current medical technology suggests that in order to be fully immunized against measles, children should receive two doses of the immunization agent for measles before the age of seven years.

It is the intent of the Legislature to ensure that all possible steps are taken to combat the spread of any disease through California schools.

(b) The state department, in consultation with the State Department of Education, shall develop and adopt regulations to ensure that every student in any private or public elementary or secondary school, child care center, day nursery, nursery school, or development center shall have access to full immunization against measles, as determined by the Center for Disease Control, to the extent funds are available.

Priority shall be given to children who have not received any type of measles immunization.

SEC. 2. Section 1 of this act shall become operative January 1, 1991.

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 combat the measles epidemic that threatens the health and safety of schoolaged children, it is necessary that this act take effect immediately.

CHAPTER 12

An act to add Article 10 (commencing with Section 60730) to Chapter 5 of Part 33 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 16, 1990 Filed with Secretary of State December 17, 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) The present form of assessing pupil performance does not assess the skills that pupils need to succeed in the world of work. Current assessment practices often do not adequately determine the pupils' ability to use their knowledge to solve real world problems. Moreover, current testing procedures are often not aligned with state and local instructional program goals and objectives.

(2) A report published by the California Business Roundtable entitled "Restructuring California Education: A Design for Public Education in the Twenty-First Century," states that despite the availability of many testing programs, current measurements of pupil performance provide inadequate information about how much essential knowledge and reasoning skills pupils have learned, and that schools cannot be held accountable for results until performance can be measured in fair, comparable, and understandable ways.

(3) The San Diego Unified School District has found that a growing number of schools are seeking more accurate ways to measure pupil achievement because many important skills cannot be assessed with current testing procedures.

(4) A report prepared by the Association of California School Administrators found that the pressure placed upon schools to achieve high test scores can severely alter the focus of teaching and learning. Many school officials complain that instead of concentrating on long-term, often intangible success, the public has been led to believe that high test scores are the only way to measure quality education and evaluate schools.

(5) The consensus of educators participating in a series of recent conferences that critically evaluated the current pupil assessment system concluded that the educational reform movements call for pupils to think critically, write clearly and persuasively, and argue logically, and that it is important that these skills be assessed directly and under conditions which mirror the real world in order to provide assurances to the public that pupils are acquiring those skills.

(6) The office of the Legislative Analyst has found that present evaluations of assessment programs fail to address important policy issues relating to the impact of the evaluated program, and that the evaluation should be designed to determine the value of educational

resources. Current resources do not provide for the variety of validated assessment procedures that are necessary to conduct comprehensive educational program evaluations that will provide the Legislature with the information necessary to make informed decisions about the value and cost benefits of those educational programs and practices.

(b) The Legislature further finds and declares that existing resources at the state and local levels are not sufficient to provide for the extensive redevelopment and validation necessary to produce alternative assessments, and that it is necessary to provide for the funding of pilot projects to develop and validate performance assessment models capable of being disseminated to all public schools.

It is the intent of the Legislature in enacting this act to provide for the development and evaluation of alternative assessment programs and practices through the establishment of a pilot program to provide for the development of models for the implementation of effective alternative assessment procedures that will be made available to all public schools. It is further the intent of the Legislature that these alternative assessment models are fair, accurate, and unbiased.

SEC. 2. Article 10 (commencing with Section 60730) is added to Chapter 5 of Part 33 of the Education Code, to read:

Article 10. Alternative Assessment Pilot Project

60730. (a) Based on the recommendations and advice of the Superintendent of Public Instruction, the State Board of Education shall select two pilot projects to identify and disseminate effective alternatives to the current standardized assessment system. The State Board of Education and the State Department of Education shall develop guidelines for the selection and award of the pilot projects.

(b) The State Board of Education, in cooperation with the State Department of Education, shall do all of the following:

(1) Select one or more independent educational research or evaluation agencies to provide technical and research assistance to the two selected consortia and select a separate independent agency to evaluate annually the impact, effectiveness, and benefits of each of the pilot projects.

(2) Submit a report, on or before September 1, 1993, to the Governor and the Legislature on the findings and recommendations of the lead consortium, pursuant to subdivision (d) of Section 60731.5, and on the effectiveness of the alternative assessment programs and practices developed by the pilot projects for use in the public schools, as evaluated pursuant to Section 60731.5.

If the assessment practices of the pilot projects are found to be superior indicators of pupil learning, the recommendations shall be specific so that the recommendations may be considered for

statewide implementation by the Legislature.

(c) Each pilot project established pursuant to this article shall be operated through June 30, 1993.

60731. (a) In order to be eligible for selection as a pilot project pursuant to this section, an applicant shall represent a consortium of two or more school districts involved in curriculum and pupil assessment and also shall meet the following requirements:

(1) Serve pupils in grades kindergarten and grades 1 to 12, inclusive.

(2) Have established a committee of teachers representing the districts comprising the consortium.

(3) Reflect the socioeconomic, ethnic, and racial diversity of the state's pupil population.

(b) The State Board of Education, based upon the recommendations and advice of the State Department of Education shall authorize a grant award, under this section, to two regional consortia to develop, validate, and disseminate resources and procedures for conducting alternative student assessment. The state board shall ensure that one of the consortia selected shall be located in the northern portion of the state, and one consortium shall be located in the southern portion of the state. The state board shall select one existing assessment consortium to act as the local educational agency for the entire project. The remaining consortium shall operate as a satellite consortium. The consortium selected as the local educational agency shall have experience in portfolio assessment, school effectiveness assessment, or other forms of alternative assessment.

(c) Participating public postsecondary educational institutions in each selected consortia are encouraged to develop and disseminate training models for new teachers and may provide staff development assistance to teachers in participating school districts. A public unified school district maintaining kindergarten and grades 1 to 12, inclusive, shall serve as the local education agency for each pilot project.

60731.5. One or more independent educational research or evaluation agencies shall be selected pursuant to paragraph (1) of subdivision (b) of Section 60730 to provide technical and research assistance to the two selected consortia. A separate independent agency shall be selected to evaluate annually the impact, effectiveness, and benefits of each of the pilot projects on schools and programs throughout the state. Not more than 20 percent of any funds allocated for carrying out the provisions of this article shall be made available to the research agencies.

The applicant selected to serve as the lead consortium shall develop and implement the pilot project in collaboration with the State Department of Education and, at a minimum, shall do all of the following:

(a) Conduct a study to define and evaluate current statewide pupil assessment practices and to identify additional types and levels

of assessment needed for vocational planning, curriculum planning, and program evaluation by school districts and schools. The study shall include an evaluation of the appropriateness of existing educational program accountability information for assessment programs as may be needed by the office of the Legislative Analyst. It is the intent of the Legislature that prior to commencing the evaluation of existing or alternative assessment methods, the evaluators consult with representatives who reflect the socioeconomic, ethnic, and racial diversity of the state's pupil population and that the comments of those representatives be taken into consideration in the development of recommendations pursuant to this article.

(b) Review and catalog all existing alternative assessment instruments, programs, and procedures.

(c) Determine the cost-benefit analysis for schools and programs to adopt each of the alternative assessment programs and practices.

(d) Develop comprehensive policy recommendations related to pupil assessments, as well as all related program and performance indicators and report the findings and recommendations to the State Board of Education and the State Department of Education.

(e) Determine the most effective means of disseminating comprehensive program assessment information to the community.

(f) Review existing accountability systems and recommend improvements or changes based on the findings of the pilot projects to include school accountability report cards, California Assessment Program measures, low-performing school guidelines, and other appropriate systems.

(g) Coordinate assessment planning and development activities with existing subject matter projects.

(h) Develop annual reports of findings to be submitted to the State Curriculum Commission, the State Board of Education, the Superintendent of Public Instruction, and the Legislature.

60731.6. Each applicant selected to implement a pilot project, at a minimum, shall do all of the following:

(a) Develop and field test validated alternative assessment practices, developed pursuant to this section, for each of the need categories prescribed under subdivision (a) of Section 60731.5.

(b) Develop all necessary training and professional development programs required for the replication and adaptation of validated alternative assessment practices.

(c) Develop, package, and disseminate training and materials needed for schools to adopt or adapt appropriate alternative assessment procedures that meet determined local program and pupil needs.

(d) Annually evaluate the progress of each pilot project in meeting the objectives prescribed under this chapter.

(e) Utilize existing structures and programs for the dissemination and training of school staff in the implementation of alternative assessment programs and practices, including school improvement

programs, school development plans, coordinated school-based planning programs, and other appropriate programs.

(f) Ensure that the alternative assessment programs and practices include the consideration of pupils with special educational needs and existing programs available to assist these pupils.

(g) Ensure that the alternative assessment programs and practices are fair, accurate, and unbiased.

60731.9. This article shall remain in effect only until January 1, 1994, and shall have no force or effect on or after that date, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 3. It is the intent of the Legislature that funding for the Alternative Assessment Pilot Project, established pursuant to Article 10 (commencing with Section 60730) of Chapter 5 of Part 33 of the Education Code, shall be provided in the annual Budget Act.

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

In order for this pilot program to be functional for the 1990–91 school year, it is necessary for this act to take effect immediately.

CHAPTER 13

An act to amend Section 17912.3 of the Education Code, to amend the heading of Chapter 3 (commencing with Section 14535) of Part 5.3 of Division 3 of Title 2 of the Government Code, to amend Sections 99313.3, 99313.6, 99314.5, 99315, 99317.9, and 99318 of, and to repeal Section 99318.6 of, the Public Utilities Code, to amend Sections 146.5 and 2104 of the Streets and Highways Code, and to amend Sections 286, 375, 516, 655, 1803, 9905, 9911, 10751, 12505, 12806, 12810, 12818, 14100, 14101, 14103, 14104, 14104.5, 14105, 14105.5, 14106, 14112, 15300, 24400, 25258, 25259, 27360, 27365, 34501.12, 34506.4, 34507.5, 35401, 35401.3, 40509, 40509.5, 40900, and 42001 of, to amend the heading of Article 2 (commencing with Section 11800) of Chapter 4 of Division 5 of, to add Sections 230.5, 471, 9706.1, 14104.2, 14104.7, and 42001.12 to, to add an article heading to Chapter 5 (commencing with Section 14900) of Division 6 of, to add Article 2 (commencing with Section 14910) to Chapter 5 of Division 6 of, and to repeal Sections 8058, 14102, 14107, 14108, 14109, 14110, 14111, 20019, and 20020 of, the Vehicle Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 13, 1991. Filed with Secretary of State February 13, 1991.]

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

SECTION 1. This act shall be known as the Omnibus Transportation Act of 1991.

SEC. 2. Section 17912.3 of the Education Code is amended to read:

17912.3. No school district which receives one or more replacement buses pursuant to this part shall purchase for use as a schoolbus, as defined in Section 545 of the Vehicle Code, any schoolbus which does not meet federal Motor Vehicle Safety Standards 220, 221, and 222, (49 C.F.R. Secs. 571.220, 571.221, and 571.222) applicable to schoolbuses commencing April 1, 1977.

SEC. 3. The heading of Chapter 3 (commencing with Section 14535) of Part 5.3 of Division 3 of Title 2 of the Government Code is amended to read:

CHAPTER 3. ANNUAL REPORT

SEC. 4. Section 99313.3 of the Public Utilities Code is amended to read:

99313.3. The amount received by each transportation planning agency and county transportation commission, and the San Diego Metropolitan Transit Development Board, pursuant to Sections 99313 and 99314, shall be allocated for public transportation purposes, including community transit services. Funds received pursuant to Section 99314 may be expended for community transit services pursuant to Section 99275.

SEC. 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, and to claimants for the purposes specified in Section 99275, 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. 6. 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) 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.

(c) 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.

SEC. 7. Section 99315 of the Public Utilities Code is amended to read:

99315. Funds made available pursuant to subdivision (a) of Section 99312, shall be available for all of the following purposes:

(a) Bus and passenger rail services pursuant to Sections 14035, 14035.5, and 14038 of the Government Code.

(b) Funding of transit capital improvement projects specified in Sections 99317 and 99317.1.

(c) Programs to promote ridesharing.

SEC. 8. Section 99317.9 of the Public Utilities Code is amended to read:

99317.9. The department and the commission shall give reasonable priority to allocations pursuant to paragraph (5) of subdivision (a) of Section 99317 to station projects which improve access for visitors to state prisons.

SEC. 9. 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 Sections 99317 and 99317.1 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. 10. Section 99318.6 of the Public Utilities Code is repealed.

SEC. 11. Section 146.5 of the Streets and Highways Code is amended to read:

146.5. (a) The department may construct, maintain, and operate fringe and transportation corridor parking facilities along the state highway system when those facilities would reduce motor vehicle traffic congestion or improve highway safety. Those facilities may include child care projects that are part of an overall traffic reduction plan. For purposes of this code, those facilities are part of the state highway, and the department shall acquire the right-of-way necessary for those facilities in accordance with all of the laws and procedures applicable to other state highway projects.

(b) The department may enter into agreements with other public agencies for the joint financing of fringe and transportation corridor parking facilities. The rights and obligations of the department and other public agencies with respect to those facilities shall be determined by agreement.

(c) Fringe and transportation corridor parking facilities estimated to cost two hundred fifty thousand dollars ($250,000) or more and located in an urbanized area shall be limited to those facilities included by transportation planning agencies in a regional transportation improvement program prepared pursuant to Section 14527 of the Government Code. Not more than two million dollars ($2,000,000) of the state funds appropriated by the Legislature each year for state highway construction may be used for the purpose of constructing those facilities. In addition, for projects estimated to cost thirty thousand dollars ($30,000) or more, the state funds may be used only to match federal or local funds, or both.

(d) It is the intent of the Legislature to allow the department to make available space in underutilized park and ride lots for child care purposes when linked to an overall traffic reduction plan. It is not the intent of the Legislature for the department to enter into the operation of those child care projects.

SEC. 12. Section 2104 of the Streets and Highways Code is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents ($0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and 1.80 cents ($0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of that

division), shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or three million dollars ($3,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars ($60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

SEC. 13. Section 230.5 is added to the Vehicle Code, to read:

230.5. A "B-train assembly" is a rigid frame extension attached to the rear frame of a semitrailer which allows for a fifth wheel connection point for a second semitrailer.

SEC. 14. Section 286 of the Vehicle Code is amended to read:

286. The term "dealer" does not include:

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the regular course of business, who sells vehicles under a contractual right or obligation, or in performance of an official duty, or in authority of any court of law, if the sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute vehicles of a type subject to

registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by those manufacturers or distributors. However, if any of those persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salesmen by vehicle dealers licensed under this code while acting within the scope of that employment.

(d) Persons engaged exclusively in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States, if no federal excise tax is legally payable or refundable on any of the transactions. Persons not engaged exclusively in the bona fide business of exporting vehicles, but who are engaged in the business of soliciting orders for the sale and delivery of vehicles, outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of the vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, who dispose of any vehicle acquired and used in good faith, for their own personal use, or for use in their business, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in the purchase, sale, or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories by means of public auction on behalf of the owners at the owners' place of business, or as otherwise approved by the department, if intermediate physical possession or control of, or an ownership interest in the inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer to be used exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a "lessor" as defined in Section 372.

(j) Any person who is a "renter" as defined in Section 508.

(k) Any "salvage pool" as defined in Section 543.

(*l*) Any yacht broker who is subject to the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code) and who sells used boat trailers in conjunction with the sale of a vessel.

(m) Any licensed "automobile dismantler" as defined in Section 220 who sells vehicles that have been reported for dismantling as provided in Section 11520.

(n) The Director of Corrections when selling vehicles pursuant to Section 2813.5 of Penal Code.

SEC. 15. Section 375 of the Vehicle Code is amended to read:

375. "Lighting equipment" is any of the following lamps or devices:

(a) Any headlamp, auxiliary driving, passing, or fog lamp, fog taillamp, taillamp, stoplamp, supplemental stoplamp, license plate lamp, clearance lamp, side marker lamp, signal lamp or device, supplemental signal lamp, deceleration signal device, cornering lamp, running lamp, red, blue, amber, or white warning lamp, flashing red schoolbus lamp, side-mounted turn signal lamp, and schoolbus side lamp.

(b) Any operating unit or canceling mechanism for turn signal lamps or for the simultaneous flashing of turn signal lamps as vehicular hazard signals, and any advance stoplamp switch.

(c) Any flasher mechanism for turn signals, red schoolbus lamps, warning lamps, the simultaneous flashing of turn signal lamps as vehicular hazard signals, and the headlamp flashing systems for emergency vehicles.

(d) Any equipment regulating the light emitted from any lamp or device or the light sources therein.

(e) Any reflector, including reflectors for use on bicycles, and reflectors used for required warning devices.

SEC. 16. Section 471 is added to the Vehicle Code, to read:

471. A "pickup truck" is a motortruck with a manufacturer's gross vehicle weight rating of less than 10,101 pounds, an unladen weight of less than 6,001 pounds, and which is equipped with an open box-type bed less than 9 feet in length.

SEC. 17. Section 516 of the Vehicle Code is amended to read:

516. "Resident" means any person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Presence in the state for six months or more in any 12-month period gives rise to a rebuttable presumption of residency.

The following are evidence of residency for purposes of vehicle registration:

(a) Address where registered to vote.

(b) Location of employment or place of business.

(c) Payment of resident tuition at a public institution of higher education.

(d) Attendance of dependents at a primary or secondary school.

(e) Filing a homeowner's property tax exemption.

(f) Renting or leasing a home for use as a residence.

(g) Declaration of residency to obtain a license or any other privilege or benefit not ordinarily extended to a nonresident.

(h) Possession of a California driver's license.

(i) Other acts, occurrences, or events that indicate presence in the state is more than temporary or transient.

SEC. 18. Section 655 of the Vehicle Code is amended to read:

655. A "truck tractor" is a motor vehicle designed and used

primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. As used in this section, "load" does not include items carried on the truck tractor in conjunction with the operation of the vehicle if the load carrying space for these items does not exceed 34 square feet.

SEC. 18.5. Section 1803 of the Vehicle Code, as amended by Section 1 of Chapter 1696 of the Statutes of 1990, is amended to read:

1803. (a) Every clerk of a court in which a person was convicted of any violation of this code, of any violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code pertaining to a mechanically propelled vessel but not to manipulating any water skis, aquaplane, or similar device, of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, or of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a) of this section:

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(8) Sections 23221, 23223, 23225, and 23226.

(c) If the court impounds a license or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23186, or subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an

abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23167, 23187, or 23207, the clerk of the court in which the order terminating or revoking probation was entered, shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

(f) This section shall remain in effect only until January 1, 1992, and on that date is repealed, unless a later enacted statute which is enacted before January 1, 1992, deletes or extends that date.

SEC. 19. Section 1803 of the Vehicle Code, as amended by Section 7 of Chapter 1698 of the Statutes of 1990, is amended to read:

1803. (a) Every clerk of a court in which a person was convicted of any violation of this code, of any violation of subdivision (b), (c), (d), (e), or (f) of Section 655 or Section 655.2 or 658 of the Harbors and Navigation Code, or Section 191.5 of the Penal Code when the conviction resulted from the operation of a vessel, of any offense involving use or possession of controlled substances under Division 10 (commencing with Section 11000) of the Health and Safety Code, and of any felony offense when a commercial motor vehicle, as defined in subdivision (b) of Section 15210, was involved in or incidental to the commission of the offense, and of any violation of any other statute relating to the safe operation of vehicles, shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the department within 10 days after sentencing and the abstract shall be certified by the person so required to prepare it to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a) of this section:

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11, except Section 22526.

(4) Division 12 (commencing with Section 24000), except

Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and Chapter 3 (commencing with Section 26301).

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(8) Sections 23221, 23223, 23225, and 23226.

(c) If the court impounds a license or orders a person to limit his or her driving pursuant to paragraph (2) of subdivision (a) of Section 23161, subdivision (b) of Section 23166, subdivision (b) of Section 23186, or subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

(d) If the court determines that a prior judgment of conviction of a violation of Section 23152 or 23153 is valid or is invalid on constitutional grounds pursuant to Section 41403, the clerk of the court in which the determination is made shall prepare an abstract of that determination and forward it to the department in the same manner as an abstract of record pursuant to subdivision (a).

(e) Within 10 days of an order terminating or revoking probation under Section 23167, 23187, or 23207, the clerk of the court in which the order terminating or revoking probation was entered, shall prepare and immediately forward to the department at its office in Sacramento an abstract of the record of the court order terminating or revoking probation and any other order of the court to the department required by law.

(f) This section shall become operative on January 1, 1992.

SEC. 21. Section 8058 of the Vehicle Code is repealed.

SEC. 22. Section 9706.1 is added to the Vehicle Code, to read:

9706.1. If the registration card or potential registration card is unavailable, payment of the fee prescribed by Section 9265 for the issuance of a duplicate registration shall not be required in addition to the other fees prescribed by subdivision (b) of Section 9706.

SEC. 23. Section 9905 of the Vehicle Code is amended to read:

9905. An owner who has made a bona fide sale or transfer of an undocumented vessel and has delivered possession of the vessel to a purchaser shall not by reason of any of the provisions of this code or the Harbors and Navigation Code be deemed the owner of the vessel so as to be subject to civil liability for the operation of the vessel thereafter by another when the owner, in addition to the foregoing, has fulfilled either of the following requirements:

(a) Made proper endorsement and delivery of the certificate of ownership as provided in this code.

(b) Delivered to the department or placed in the United States

mail, addressed to the department, either the notice as provided in Sections 9911 and 9912 or appropriate documents for transfer of the vessel pursuant to the sale or transfer.

SEC. 24. Section 9911 of the Vehicle Code is amended to read:

9911. Whenever the owner of an undocumented vessel numbered under this code sells or transfers his or her title or interest in, or any part thereof, and delivers the possession of, the vessel to another, the owner shall, within five calender days, notify the department of the sale or transfer by giving the date thereof, the name and address of the owner and of the transferee and a description of the vessel as may be required in the appropriate form provided for the purpose by the department.

SEC. 25. 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 or her possession, any vehicle, or component part thereof, from which any serial or identification number, including, but not limited to, any number used for registration purposes, that is affixed by the manufacturer to the vehicle or component part, in whatever manner deemed proper by the manufacturer, 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 described in subdivision (a), including a vehicle assembled with any component part which is in violation of 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 a 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 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 described in

subdivision (a), the person from whom the property was seized shall be provided a notice of impoundment of the vehicle 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 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 serial or identification number has not been removed, defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of ownership of the vehicle or a component part, if no other person claims an interest in the property; otherwise, a hearing regarding the disposition of the vehicle 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 serial or identification number has not been removed, defaced, altered, or destroyed or that the number has been removed, defaced, 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 precludes the return of the vehicle or a 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, defaced, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the vehicle shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency has the burden of establishing that the serial or identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) This section does 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.

SEC. 26. The heading of Article 2 (commencing with Section 11800) of Chapter 4 of Division 5 of the Vehicle Code is amended to read:

Article 2. Vehicle Salespersons

SEC. 27. Section 12505 of the Vehicle Code is amended to read:

12505. (a) For purposes of this division only and notwithstanding Section 516, residency shall be determined as a person's state of domicile. "State of domicile" means the state where a person has his or her true, fixed, and permanent home and principal residence and to which he or she has manifested the intention of returning whenever he or she is absent.

Prima facie evidence of residency for driver's licensing purposes includes, but is not limited to, the following:

(1) Address where registered to vote.

(2) Payment of resident tuition at a public institution of higher education.

(3) Filing a homeowner's property tax exemption.

(4) Other acts, occurrences, or events that indicate presence in the state is more than temporary or transient.

(b) The presumption of residency in this state may be rebutted by satisfactory evidence that the licensee's primary residence is in another state.

(c) Any person entitled to an exemption under Section 12502, 12503, or 12504 may operate a motor vehicle in this state for not to exceed 10 days from the date he or she establishes residence in this state, except that he or she shall obtain a license from the department upon becoming a resident before being employed for compensation by another for the purpose of driving a motor vehicle on the highways.

(d) Subject to Section 12504, any person over the age of 16 years who is a resident of a foreign jurisdiction other than a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada, having a valid driver's license issued to him or her by any other foreign jurisdiction having licensing standards deemed by the Department of Motor Vehicles equivalent to those of this state, may operate a motor vehicle in this state without obtaining a license from the department, except that he or she shall obtain a license before being employed for compensation by another for the purpose of driving a motor vehicle on the highways.

(e) Any person from a foreign country, except a territory or possession of the United States, the Commonwealth of Puerto Rico,

or the Dominion of Canada, shall obtain a class 1 or a class 2 license from the department before operating on the highways a motor vehicle for which a class 1 or class 2 license is required, as described in Section 12804. The medical examination form required for issuance of a class 1 or class 2 driver's license shall be completed by a physician licensed to practice medicine in the United States of America. This subdivision does not apply to (1) drivers of schoolbuses operated in California on a trip for educational purposes or (2) drivers of vehicles used to provide the services of a local public agency.

(f) Nothing in this section authorizes the employment of a person in violation of Section 12515.

SEC. 28. Section 12806 of the Vehicle Code is amended to read:

12806. The department may refuse to issue to, or renew a driver's license of, any person:

(a) Who is rendered incapable of safely operating a motor vehicle because of alcoholism, excessive and chronic use of alcoholic beverages, or addiction to, or habitual use of, any drug.

(b) Who is addicted to the use of narcotic drugs unless the person is participating in a methadone maintenance program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 3 of Part 1 of Division 4 of the Welfare and Institutions Code, in which case the person may be issued a probationary license, subject to reasonable terms and conditions, if that drug usage does not affect the person's ability to exercise reasonable and ordinary control in operating a motor vehicle on the highway.

(c) Who has a disorder characterized by lapses of consciousness or who has experienced, within the last three years, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or who has any physical or mental disability, disease, or disorder which could affect the safe operation of a motor vehicle unless the department has medical information which indicates the person may safely operate a motor vehicle. In making its determination, the department may rely on any relevant information available to the department.

SEC. 29. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code,

shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) Any conviction of a violation of Section 14601, 14601.1, 14601.2, or 14601.3 shall be given a value of two points.

SEC. 30. Section 12818 of the Vehicle Code is amended to read:

12818. (a) Upon a request for reexamination and presentation of a legible copy of a notice of reexamination by a person issued the notice pursuant to Section 21061, the department shall reexamine the person's qualifications to operate a motor vehicle pursuant to Section 13801, notwithstanding the notice requirement of Section 13801.

(b) Based on the department's reexamination of the person's qualifications pursuant to subdivision (a), the department shall determine if either of the following actions should be taken:

(1) Suspend or revoke the driving privilege of that person if the department finds that any of the grounds exist which authorize the refusal to issue a license.

(2) Restrict, make subject to terms and conditions of probation, suspend, or revoke the driving privilege of that person based upon the records of the department as provided in Chapter 3 (commencing with Section 13800).

(c) As an alternative to subdivision (a), the department may suspend or revoke the person's driving privilege as provided under Article 2 (commencing with Section 13950) of Chapter 3.

(d) Upon request, the department shall notify the law enforcement agency which employs the traffic officer who issued the notice of reexamination of the results of the reexamination.

SEC. 31. Section 14100 of the Vehicle Code is amended to read:

14100. (a) 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 may, within 10 days, demand a hearing which shall be granted, except as provided in Section 14101.

(b) An application for a hearing does not stay the action by the department for which the notice is given.

SEC. 32. Section 14101 of the Vehicle Code is amended to read:

14101. A person is not entitled to a hearing in either of the following cases:

(a) If the action by the department is made mandatory by this code.

(b) If the person has previously been given an opportunity with appropriate notice for a hearing and failed to request a hearing within the time specified by law.

SEC. 33. Section 14102 of the Vehicle Code is repealed.

SEC. 34. Section 14103 of the Vehicle Code is amended to read:

14103. Failure to respond to a notice given under this chapter within 10 days is a waiver of the right to a hearing, and the department may take action without a hearing or may, upon request of the person whose privilege of driving is in question, or at its own option, reopen the question, take evidence, change, or set aside any order previously made, or grant a hearing.

SEC. 35. Section 14104 of the Vehicle Code is amended to read:

14104. If the department grants a hearing as provided in this chapter, it shall fix a time and place for the hearing and shall give 10 days' notice of the hearing to the applicant or licensee. The notice of hearing shall also include a statement of the discovery rights of the applicant or licensee to review the department's records prior to the hearing.

SEC. 36. Section 14104.2 is added to the Vehicle Code, to read:

14104.2. (a) Any hearing shall be conducted by the director or by a hearing officer or hearing board appointed by him or her from officers or employees of the department.

(b) The entire proceedings at any hearing may be recorded by a phonographic recorder or by mechanical, electronic, or other means capable of reproduction or transcription.

SEC. 37. Section 14104.5 of the Vehicle Code is amended to read:

14104.5. Before a hearing has commenced, the department, or the hearing officer or hearing board, shall issue subpoenas or subpoenas duces tecum, or both, at the request of any party, for attendance or production of documents at the hearing. After the hearing has commenced, the department, if it is hearing the case, or the hearing officer sitting alone, or the hearing board, may issue subpoenas or subpoenas duces tecum, or both.

SEC. 38. Section 14104.7 is added to the Vehicle Code, to read:

14104.7. At any hearing, the department shall consider its official records and may receive sworn testimony. At the hearing, or subsequent to the hearing with the consent of the applicant or licensee, any or all of the following may be submitted as evidence concerning any fact relating to the ability of the applicant or licensee to safely operate a motor vehicle:

(a) Reports of attending or examining physicians and surgeons.

(b) Reports of special investigators appointed by the department to investigate and report upon any facts relating to the ability of the person to operate a vehicle safely.

(c) Properly authenticated reports of hospital records, excerpts from expert testimony received by the department or a hearing board upon similar issues of scientific fact in other cases, and the prior decision of the director upon those issues.

SEC. 39. Section 14105 of the Vehicle Code is amended to read:

14105. Upon the conclusion of a hearing, the hearing officer or hearing board shall make findings and render a decision on behalf of the department and shall notify the person involved. Notice of the decision shall include a statement of the person's right to a review. The decision shall take effect as stated in the notice, but not less than four nor more than 15 days after the notice is mailed.

SEC. 40. Section 14105.5 of the Vehicle Code is amended to read:

14105.5. (a) The person subject to a hearing may request a review of the decision taken under Section 14105 within 15 days of the effective date of the decision.

(b) On receipt of a request for review, the department shall stay the action pending a decision on review, unless the hearing followed an action pursuant to Section 13353, 13353.2, or 13953. The review shall include an examination of the hearing report, documentary evidence, and findings. The hearing officer or hearing board conducting the original hearing may not participate in the review process.

(c) Following the review, a written notice of the department's decision shall be mailed to the person involved. If the action has been stayed pending review, the department's decision shall take effect as stated in the notice, but not less than four nor more than 15 days after the notice is mailed.

SEC. 41. Section 14106 of the Vehicle Code is amended to read:

14106. Following the mailing of the notice of the department's decision pursuant to Section 14105.5, the department, at its own option or upon the request of the person whose privilege of driving is in question, may reopen the question, take further evidence, or change or set aside any order previously made.

SEC. 42. Section 14107 of the Vehicle Code is repealed.

SEC. 43. Section 14108 of the Vehicle Code is repealed.

SEC. 44. Section 14109 of the Vehicle Code is repealed.

SEC. 45. Section 14110 of the Vehicle Code is repealed.

SEC. 46. Section 14111 of the Vehicle Code is repealed.

SEC. 47. Section 14112 of the Vehicle Code is amended to read:

14112. All matters in a hearing not covered by this chapter shall be governed, as far as applicable, by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 48. An article heading is added to Chapter 5 (commencing with Section 14900) of Division 6, immediately preceding Section 14900, of the Vehicle Code, to read:

Article 1. Imposition of Fees

SEC. 49. Article 2 (commencing with Section 14910) is added to Chapter 5 of Division 6 of the Vehicle Code, to read:

Article 2. Collection of Fees

14910. (a) The department shall, with the consent of the applicant, collect the amounts which it has been notified are due pursuant to Sections 40509 and 40509.5, and any service fees added to those amounts, at the time it collects from the applicant any fees and penalties required to issue or renew a driver's license or identification card.

(b) Except as provided in subdivision (c), the department shall remit all amounts collected pursuant to subdivision (a), after deducting the administrative fee authorized in subdivision (c), to each jurisdiction in the amounts due to each jurisdiction according to its notices filed with the department. Within 45 days from the time payment is received by the department, the department shall inform each jurisdiction which of its notices of failure to appear or failure to pay have been discharged.

(c) The department shall assess a fee for posting the bail on each notice of failure to appear or failure to pay which is given to the department pursuant to Section 40509 or 40509.5, in an amount, as determined by the department, that is sufficient to provide a sum equal to its actual costs of administering this section, not to exceed one dollar ($1) per notice. The fees shall be assessed to each jurisdiction on a regular basis by deducting the amount due to the department pursuant to this subdivision from the bails and fines collected pursuant to subdivision (a), prior to remitting the balance to each jurisdiction pursuant to subdivision (b).

(d) If bail is collected under this section for the violation of any provisions of this code, the person shall be deemed to be convicted of those sections violated.

(e) Any amounts collected by the department under this section are nonrefundable by the department.

(f) Notwithstanding Section 42003, payment of bail to the department in accordance with this section shall be paid in full and not in installments.

(g) This section shall become operative on July 1, 1992.

SEC. 50. Section 15300 of the Vehicle Code is amended to read:

15300. (a) No driver of a commercial motor vehicle may operate a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of any of the following:

(1) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.

(2) Leaving the scene of an accident involving a commercial motor vehicle operated by the driver.

(b) If either of the above violations, or a violation listed in paragraph (2) of subdivision (a) of Section 13350 or Section 13352 or 13357, occurred while transporting a hazardous material, the period specified in subdivision (a) shall be three years.

SEC. 51. Section 20019 of the Vehicle Code is repealed.

SEC. 52. Section 20020 of the Vehicle Code is repealed.

SEC. 53. Section 24400 of the Vehicle Code is amended to read:

24400. During darkness, every motor vehicle other than a motorcycle, shall be equipped with at least two lighted headlamps, with at least one on each side of the front of the vehicle, and, except as to vehicles registered prior to January 1, 1930, they shall be located directly above or in advance of the front axle of the vehicle. The headlamps and every light source in any headlamp unit shall be located at a height of not more than 54 inches nor less than 22 inches.

SEC. 54. Section 25258 of the Vehicle Code is amended to read:

25258. (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) An authorized emergency vehicle used by a peace officer, as defined in Section 830.1, subdivision (a), (b), (c), (d), (e), (f), (g), (h), or (j) of Section 830.2, subdivision (b) of Section 830.31, subdivision (a) or (b) of Section 830.32, subdivision (a), (b), (c), or (d) of Section 830.33, subdivision (a) of Section 830.36, subdivision (a) of Section 830.4, or Section 830.6 of the Penal Code in the performance of the peace officer's duties, may, in addition, display a steady or flashing blue warning light visible from the front, sides, or rear of the vehicle.

SEC. 55. Section 25259 of the Vehicle Code is amended to read:

25259. (a) Any authorized emergency vehicle may display flashing amber warning lights to the front, sides, or rear.

(b) A vehicle operated by a police or traffic officer while in the actual performance of his or her duties may display steady burning or flashing white lights to either side mounted above the roofline of the vehicle.

(c) Any authorized emergency vehicle may display not more than two flashing white warning lights to the front mounted above the roofline of the vehicle if the vehicle is equipped with a warning light system mounted above the roofline, and is concurrently displaying at least three red, blue, or amber warning lights to the front.

SEC. 56. Section 27360 of the Vehicle Code is amended to read:

27360. (a) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motortruck of less than 6,001 pounds unladen weight, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly using, for each such child or ward, a child passenger seat restraint system meeting applicable federal motor vehicle safety standards.

Notwithstanding Section 42005, a first charge under this subdivision may be dismissed, with the consent of the defendant, only if the person charged produces in court either or both of the following, as designated by the court:

(1) Proof that a child passenger seat restraint system has been obtained for use of the child.

(2) Proof of attendance at a program providing education in the

use of child passenger seat restraint systems.

No violation of this subdivision shall be dismissed unless the court notifies the department and includes the reasons for the dismissal in the notification.

A second or subsequent violation shall not be dismissed and is punishable by a fine of one hundred dollars ($100), unless the defendant can prove he or she is economically disadvantaged. Fifty percent of the fines shall be allocated to child passenger seat restraint system loaner programs in the jurisdiction in which the violation occurred, of which 25 percent shall be used for the purchase of new seats and 25 percent for the development of new loaner programs.

(b) It is unlawful for any driver to transport on a highway any child under four years of age or weighing less than 40 pounds in a passenger vehicle or motortruck of less than 6,001 pounds unladen weight without providing and properly securing the child in a child passenger seat restraint system meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

SEC. 57. Section 27365 of the Vehicle Code is amended to read:

27365. (a) (1) Every car rental agency in California shall inform each of its customers of the provisions of Section 27360 by posting, in a place conspicuous to the public in each established place of business of the agency, a notice not smaller than 15 inches by 20 inches which states the following:

"CALIFORNIA LAW REQUIRES ALL CHILDREN UNDER THE AGE OF 4 OR WEIGHING LESS THAN 40 POUNDS TO BE TRANSPORTED IN A CHILD RESTRAINT SYSTEM. THIS AGENCY IS REQUIRED TO PROVIDE FOR RENTAL A CHILD RESTRAINT SYSTEM IF YOU DO NOT HAVE SUCH A SYSTEM YOURSELF."

(2) The posted notice specified in paragraph (1) is not required if the car rental agency's place of business is located in a hotel which has a business policy prohibiting the posting of signs or notices in any area of the hotel. In that case, a car rental agency shall furnish a written notice to each customer which contains the same information as required for the posted notice.

(b) Every such agency shall have available for, and shall, upon request, provide for rental to, adults traveling with children under the age of four or weighing less than 40 pounds, child passenger seat restraint systems meeting applicable federal motor vehicle safety standards on the date of the rental transaction, in good and safe condition, with no missing original parts, and not older than five years.

(c) A violation of this section is an infraction punishable by a fine of one hundred dollars ($100).

SEC. 58. Section 34501.12 of the Vehicle Code is amended to read:

34501.12. (a) Notwithstanding Section 408, as used in this section

and Sections 34505.5 and 34505.6, "motor carrier" means the registered owner of any vehicle described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier.

(b) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (3) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(c) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515 of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,100 pounds, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste hauler registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles which display special identification plates in accordance with Section 5011, implements of husbandry, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(d) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (c). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee shall be four hundred dollars ($400) per terminal, except in the case of an owner-operator, as defined in Section 3557 of the Public Utilities Code, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500, for which the fee shall be one hundred dollars ($100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) Every motor carrier subject to the requirements of this section

shall submit an application for the initial inspection required by subdivision (a) on or before July 1, 1989. The inspection term for a motor carrier shall expire 25 months from the date the department conducts the motor carrier's first terminal inspection, and every 25 months thereafter. Applications and fees for subsequent inspections shall be submitted not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(e) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by paragraph (2) of subdivision (b).

(f) On and after January 1, 1992, it shall be unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (a) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(g) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.

(h) The department shall report to the Legislature not later than September 1, 1991, on the mandates of the California Commercial Motor Vehicle Safety Act of 1988 and the mandates of Section 34514. The department shall recommend any program adjustments that may be desirable, and shall report on any fee adjustments that may be required to fully fund biennial terminal inspections of all California truck terminals. The department shall also consider the feasibility of implementing an incentive program which would benefit truck operators with excellent safety records.

SEC. 59. Section 34506.4 of the Vehicle Code is amended to read:

34506.4. Any member of the California Highway Patrol may remove from the highway and have placed in a storage facility, any vehicle described in subdivision (a) of Section 22406, subdivision (g) of Section 34500, and any motortruck with a gross vehicle weight

rating of more than 10,101 pounds, which is in an unsafe condition. All towing and storage fees for a vehicle removed under this section shall be paid by the owner.

SEC. 60. Section 34507.5 of the Vehicle Code is amended to read:

34507.5. (a) Every motor carrier shall obtain a carrier identification number from the department. Application for a carrier identification number shall be on forms furnished by the department. Information provided in connection with applications for carrier identification numbers shall be updated by motor carriers upon request from the department.

(b) (1) The carrier identification number shall be displayed on both sides of each vehicle set forth in Section 34500, or on both sides of at least one motor vehicle in each combination of vehicles.

(2) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

(3) The carrier identification number shall be removed before sale, transfer, or other disposal of the vehicle.

(c) This section does not apply to any of the following vehicles:

(1) Vehicles which are regulated by, and which display a valid operating authority or identification number assigned by, the Interstate Commerce Commission, the Public Utilities Commission, or the United States Department of Transportation.

(2) Vehicles described in subdivision (f) of Section 34500 if the gross vehicle weight rating of the towing vehicle is 10,100 pounds or less.

(3) Vehicles described in subdivision (g) of Section 34500 if the hazardous material transportation does not require the display of placards pursuant to Section 27903, a license pursuant to Section 32000.5, or hazardous waste hauler registration pursuant to Section 25163 of the Health and Safety Code.

(4) Historical vehicles, as described in Section 5004, vehicles which display special identification plates in accordance with Section 5011, and implements of husbandry as defined in Chapter 1 (commencing with Section 36000) of Division 16.

SEC. 61. Section 35401 of the Vehicle Code is amended to read:

35401. (a) Except as provided in subdivisions (b), (c), and (d), no combination of vehicles coupled together, including any attachments, shall exceed a total length of 65 feet.

(b) (1) A combination of vehicles coupled together, including any attachments, which consists of a truck tractor, a semitrailer, and a semitrailer or trailer, shall not exceed a total length of 75 feet, if the length of neither the semitrailers nor the trailer in the combination of vehicles exceeds 28 feet 6 inches.

(2) A B-train assembly is excluded from the measurement of semitrailer length when used between the first and second semitrailers of a truck tractor-semitrailer-semitrailer combination of vehicles. However, if there is no second semitrailer mounted to the

B-train assembly, it shall be included in the length measurement of the semitrailer to which it is attached.

(c) A tow truck in combination with any of the following vehicles authorized to travel on the highway by this chapter is exempt from subdivision (a) when operating under a valid annual transportation permit and within a 100 mile radius of the location specified in the permit:

(1) A disabled vehicle.

(2) An abandoned vehicle.

(3) A disabled or abandoned combination of vehicles.

A tow truck in combination with the above vehicles may exceed the 100-mile radius restriction if a single trip permit is obtained from the Department of Transportation.

(d) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under its respective jurisdiction. The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(e) Any city or county, upon a determination that a highway or portion of highway under its jurisdiction cannot, in consideration of public safety, sustain the operation of trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400, may, by ordinance, establish lesser distances consistent with the maximum distances that the highway or highway portion can sustain, except that a city or county shall not restrict the kingpin to rearmost axle measurement to less than 38 feet on those highways or highway portions. Any city or county considering the adoption of an ordinance shall consider, but not be limited to, consideration of, all of the following:

(1) A comparison of the operating characteristics of the vehicles to be limited as compared to operating characteristics of other vehicles regulated by this code.

(2) Actual traffic volume.

(3) Frequency of accidents.

(4) Any other relevant data.

In addition, the city or county may appoint an advisory committee consisting of local representatives of those interests which are likely to be affected and shall consider the recommendations of the advisory committee in adopting the ordinance. The ordinance shall not be effective until appropriate signs are erected indicating the highways or highway portions affected by the ordinance.

This subdivision shall only become operative upon the adoption of an enabling ordinance by a city or county.

(f) Whenever, in the judgment of the Department of Transportation, any state highway cannot, in consideration of public safety, sustain the operation of trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400, the director, in consultation with the Department of

the California Highway Patrol, shall compile data on total traffic volume, frequency of use by vehicles covered by this subdivision, accidents involving these vehicles, and other relevant data to assess whether these vehicles are a threat to public safety and should be excluded from the highway or highway segment. The study, containing the conclusions and recommendations of the director, shall be submitted to the Secretary of the Business, Transportation and Housing Agency. Unless otherwise notified by the secretary, the director shall hold public hearings in accordance with the procedures set forth in Article 3 (commencing with Section 35650) of Chapter 5 for the purpose of determining the maximum kingpin to rear axle length, which shall be not less than 38 feet, that the highway or highway segment can sustain without unreasonable threat to the safety of the public. Upon the basis of the findings, the Director of Transportation shall declare in writing the maximum kingpin to rear axle lengths which can be maintained with safety upon the highway. Following the declaration of maximum lengths as provided by this subdivision, the Department of Transportation shall erect suitable signs at each end of the affected portion of the highway and at any other points that the Department of Transportation determines to be necessary to give adequate notice of the length limits.

The Department of Transportation, in consultation with the Department of the California Highway Patrol, shall compile traffic volume, geometric, and other relevant data, to assess the maximum kingpin to rearmost axle distance of vehicle combinations appropriate for those state highways or portion of highways, affected by this section, that cannot safely accommodate trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400. On or before January 1, 1989, the department shall erect suitable signs appropriately restricting truck travel on those highways, or portions of highways, and report its findings and recommendations to the Legislature.

SEC. 62. Section 35401.3 of the Vehicle Code is amended to read:

35401.3. (a) Notwithstanding subdivisions (a) and (b) of Section 35401, a combination of vehicles designed and used to transport motor vehicles, which consist of a motortruck and stinger-steered semitrailer, shall be allowed a length of up to 70 feet if the kingpin is at least three feet behind the rear drive axle of the motortruck. This combination shall not be subject to subdivision (a) of Section 35411, but the load upon the rear vehicle of the combination shall not extend more than six feet six inches beyond the allowable length of the vehicle.

(b) A combination of vehicles designed and used to transport motor vehicles, which consists of a motortruck and stinger-steered semitrailer, shall be allowed a length of up to 75 feet if all of the following conditions are maintained:

(1) The distance from the steering axle to the rear drive axle of the motortruck does not exceed 24 feet.

(2) The kingpin is at least five feet behind the rear drive axle of the motortruck.

(3) The distance from the kingpin to the rear axle of the semitrailer does not exceed 34 feet.

This combination shall not be subject to subdivision (a) of Section 35411, but the load upon the rear vehicle of the combination shall not extend more than six feet six inches beyond the allowable length of the vehicle.

SEC. 63. 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, or any violation of any other statute relating to the safe operation of a vehicle, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), (7), and (8) 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), (7), and (8) 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) (1) Notwithstanding subdivisions (a) and (b), the court may elect to notify the department of the total amount of bail, fines, assessments, and fees authorized or required by this code, including Section 40508.5, which are unpaid by any person.

(2) Once a court has established the amount of a fine and any assessments, and notified the department, the court shall not further enhance or modify that amount.

(3) This subdivision applies only to violations of this code that do not require a mandatory court appearance, are not contested by the defendant, and do not require proof of correction certified by the court.

(d) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (b) of Section 40509.5.

(e) Any violation subject to Section 40001, which is the

responsibility of the owner of the vehicle, shall not be reported under this section.

SEC. 64. 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, or any violation of any other statute relating to the safe operation of a vehicle, 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) In addition to the proceedings described in this section, the

court may elect to notify the department pursuant to subdivision (d) of Section 40509.

(f) This section is applicable to courts which have elected to provide notice pursuant to subdivision (b). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

(g) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

SEC. 65. Section 40900 of the Vehicle Code is amended to read:

40900. Notwithstanding any other provision of law, a verification by telegraph, teletype, facsimile transmission, or any other electronic device, from the department, of ownership of a vehicle registered pursuant to this code, is admissible in evidence as proof of ownership of the vehicle in any proceeding involving a parking violation of this code, or any local parking ordinance adopted pursuant to this code.

SEC. 66. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42000.5, 42001.1, 42001.2, 42001.3, 42001.5, 42001.7, 42001.8, 42001.9, 42001.11, or 42001.12, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

SEC. 67. Section 42001.12 is added to the Vehicle Code, to read:

42001.12. Every person convicted of an infraction for a violation of Section 21806 shall be punished as follows:

(a) For a first conviction, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(b) For a second conviction within one year, by a fine of not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500).

(c) For a third or any subsequent conviction within three years, by a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).

SEC. 68. 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. 70. 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. 71. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 accomplish, as nearly as possible, the Legislature's objective of enacting the provisions of AB 2580 of the 1989–90 Regular Session, it is necessary that this act, which incorporates the provisions of AB 2580, take effect immediately.

CHAPTER 14

An act to add and repeal Chapter 13 (commencing with Section 4850) to Division 4.5 of the Welfare and Institutions Code, relating to developmental disabilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 15, 1991. Filed with Secretary of State February 15, 1991.]

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

SECTION 1. Chapter 13 (commencing with Section 4850) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 13. FEES FOR CASE MANAGEMENT SERVICES

4850. (a) This chapter establishes liability for fees for case management services provided to persons with developmental disabilities and a system for the assessment and collection of those fees.

(b) It is the intent of the Legislature that this chapter promote federal financial participation under Section 1396d of Title 42 of the United States Code. It is also the intent of the Legislature that the State Department of Developmental Services continue to pursue all available administrative and judicial remedies for obtaining federal financial participation for case management services without the imposition of user fees.

(c) This chapter shall not alter the nature of any entitlement for services established by this division. This chapter shall not be construed to restrict eligibility for, or deny services to, any individual who qualifies for regional center services.

4851. (a) Notwithstanding any other provision of law, except Section 4852, each person with a developmental disability who receives case management services, as defined in subdivision (g) of Section 1396n of Title 42 of the United States Code, his or her estate, his or her spouse, and the parents of minor recipients, except the parents of minor recipients who do not reside in the same household as a parent or parents, shall be liable for fees in accordance with this section. Fees for case management services shall not exceed the regional center's actual cost of services provided. Actual costs shall be determined in the manner specified in the state medicaid plan approved by the United States Department of Health and Human Services.

(b) (1) Fees for case management services shall be determined in accordance with the following schedules:

(A) For families of one or two persons, including the client and all members of the family residing in the same household:

ADJUSTED GROSS INCOME CATEGORIES (amount reported by liable party on most recent federal income tax return)	FEE FACTOR (% of the regional center's cost of services provided)
$1 - $ 70,999	0%
$ 71,000 - $ 74,999	5%
$ 75,000 - $ 79,999	10%
$ 80,000 - $ 84,999	15%
$ 85,000 - $ 89,999	20%
$ 90,000 - $ 94,999	25%
$ 95,000 - $ 99,999	30%
$100,000 - $104,999	35%
$105,000 - $109,999	40%

$110,000 - $114,999	45%
$115,000 - $119,999	50%
$120,000 - $124,999	55%
$125,000 - $129,999	60%
$130,000 - $134,999	65%
$135,000 - $139,999	70%
$140,000 - $144,999	75%
$145,000 - $149,999	80%
$150,000 - $154,999	85%
$155,000 - $159,999	90%
$160,000 - $164,999	95%
$165,000 and over	100%

(B) For families of three persons, including the client and all members of the family residing in the same household:

ADJUSTABLE GROSS INCOME CATEGORIES (amount reported by liable party on most recent federal income tax return)	FEE FACTOR (% of the regional center's cost of services provided)
$1 - $104,999	0%
$105,000 - $109,999	5%
$110,000 - $114,999	10%
$115,000 - $119,999	15%
$120,000 - $124,999	20%
$125,000 - $129,999	25%
$130,000 - $134,999	30%
$135,000 - $139,999	35%
$140,000 - $144,999	40%
$145,000 - $149,999	45%
$150,000 - $154,999	50%
$155,000 - $159,999	55%
$160,000 - $164,999	60%
$165,000 - $169,999	65%
$170,000 - $174,999	70%
$175,000 - $179,999	75%
$180,000 - $184,999	80%
$185,000 - $189,999	85%
$190,000 - $194,999	90%
$195,000 - $199,999	95%
$200,000 and over	100%

(C) For families of four or more persons, including the client and all members of the family residing in the same household:

ADJUSTED GROSS INCOME CATEGORIES (amount reported by liable party on most recent federal income tax return)	FEE FACTOR (% of the regional center's cost of services provided)
$1 - $134,999	0%
$135,000 - $139,999	5%
$140,000 - $144,999	10%
$145,000 - $149,999	15%
$150,000 - $154,999	20%
$155,000 - $159,999	25%
$160,000 - $164,999	30%
$165,000 - $169,999	35%
$170,000 - $174,999	40%
$175,000 - $179,999	45%
$180,000 - $184,999	50%
$185,000 - $189,999	55%
$190,000 - $194,999	60%
$195,000 - $199,999	65%
$200,000 - $204,999	70%
$205,000 - $209,999	75%
$210,000 - $214,999	80%
$215,000 - $219,999	85%
$220,000 - $224,999	90%
$225,000 - $229,999	95%
$230,000 and over	100%

(2) For purposes of this subdivision, members of the family are the liable party and any person declared to be a dependent for purposes of federal income taxes of the liable party.

(3) This schedule shall be in effect through the 1991–92 fiscal year. On July 1 of each fiscal year thereafter, the department shall update this schedule by a cost-of-living factor. To update the schedule, the department shall use the previous fiscal year schedule as a base and adjust each of the adjusted gross income categories by the estimated California Necessity Index increase for the fiscal year for which it is being produced.

4852. Regional centers shall assess fees pursuant to the fee schedule specified in Section 4851 and according to the following requirements:

(a) Liable parties shall not be charged a fee for case management services included in a child's individualized education program established pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1411 and following).

(b) Within 10 days of the effective date of this chapter, or within 10 days after a person is determined to be eligible for services under

this division, regional centers shall provide all liable parties, as defined in Section 4851, who are not Medi-Cal recipients with all of the following:

(1) Written notification that they may be charged a fee for case management services provided on or after the effective date of this chapter.

(2) A self-declaration of annual adjusted gross income form.

(3) Notification of the fee schedule established pursuant to Section 4851 and of the procedures for assessing, billing, and collecting these fees.

(4) Notification that failure to provide information requested on the self-declaration of annual adjusted gross income form within 30 days of receipt of the form shall subject them to the maximum fee factor.

(5) Notification that the information provided on the self-declaration of annual adjusted gross income form is subject to verification.

(c) Within 30 days of receiving completed self-declaration of annual adjusted gross income forms, regional centers shall do both of the following:

(1) Notify liable parties who are subject to the fee of their fee factor determined pursuant to Section 4851.

(2) Notify liable parties who are subject to the fee of their right, pursuant to Chapter 7 (commencing with Section 4700), to request redetermination, reduction, cancellation, or remittance of fees for good cause. Good cause may include, but need not be limited to, reduced income, liability for more than one client's case management services, or disproportionately greater use of case management services. Each regional center shall immediately report to the department any instance in which a decision has been made to redetermine, reduce, cancel, or remit a fee.

(3) Notify liable parties who are subject to the fee of their ability pursuant to Section 4648 to serve as their own program coordinator and of the regional center's policies related thereto. Liable parties who assume the role of program coordinator pursuant to Section 4648 shall not be charged a fee pursuant to Section 4851.

(d) (1) The department shall bill and collect fees.

(2) To enable the department to carry out its billing and collection responsibilities, the regional centers shall report to the department monthly all of the following:

(A) The name and correct billing address of the liable party.

(B) The amount assessed pursuant to the fee schedule specified in Section 4851.

(C) The type and number of units of service by date of service.

(3) (A) The department shall provide statements to liable parties of amounts owing for case management services at least quarterly. The department shall bill liable parties for amounts owing at least annually, and may, at its option, bill more frequently. Billing shall commence no later than 12 months from the effective date of this

chapter.

(B) Notwithstanding subparagraph (A), no bill shall be sent to a liable party until the state medicaid plan amendment which covers the establishment of liability for fees for case management services provided to persons with developmental disabilities is approved by the United States Department of Health and Human Services.

(e) Regional centers shall provide translation services to assist liable parties to understand the notifications provided pursuant to this chapter.

(f) The department shall make all reasonable efforts to recover amounts owing for case management services from liable parties.

(g) Fees submitted to a regional center shall be forwarded to the department within 30 days of receipt.

(h) (1) The department shall deposit all fees collected into the Case Management Services Fees Account, which is hereby created, within the Developmental Disabilities Program Development Fund established pursuant to Section 4677.

(2) If the department ceases implementation of this chapter pursuant to Section 4853, the department shall reimburse those individuals who paid fees, by paying to those individuals, from the Case Management Services Fees Account, any fees collected.

(i) Regional centers shall obtain at least annually an updated self-declaration of annual adjusted gross income from liable parties.

(j) Upon notification by the department, regional centers shall begin documenting the provision of case management services.

(k) By January 1, 1992, and on each July 1 and January 1 thereafter, each regional center shall report to the department, in a manner prescribed by the department, the number of individuals who have declined or reduced utilization of case management services due to the imposition of a fee for case management services.

(*l*) By April 1, 1992, and on each October 1 and April 1 thereafter, the department shall compile and report to the Legislature the information required in subdivision (k).

(m) Any person who fails to submit a self-declaration of annual adjusted gross income form within 30 days of receipt of the form shall be subject to the maximum fee factor.

(n) Any person who qualifies for regional center services but who declines to submit a self-declaration of annual adjusted gross income form for reasons related to his or her citizenship status shall not be denied regional center services nor shall his or her eligibility for those services be restricted but shall be subject to the maximum fee factor.

4853. The department shall cease implementation of this chapter upon the occurrence of any of the following:

(a) Issuance of a final determination by the United States Department of Health and Human Services, or a final judgment and order by a United States court that federal financial participation is allowable for the provision of targeted case management services, as provided for in Section 1396d of Title 42 of the United States Code,

to persons with developmental disabilities in the State of California without the imposition of user fees.

(b) Termination of inclusion of targeted case management services within the meaning of the term "medical assistance" pursuant to Section 1396d of Title 42 of the United States Code.

(c) Failure to implement Section 2 of the act which added this chapter through June 30, 1991.

(d) Failure to offset regional centers purchase of services deficit by at least sixteen million one hundred twenty-two thousand dollars ($16,122,000) in the 1990–91 fiscal year.

(e) Failure of the United States Department of Health and Human Services to commence payment for targeted case management services within 12 months of the effective date of this chapter.

(f) Failure to reimburse regional centers for the cost of implementing this chapter incurred during the 1990–91 fiscal year.

4854. This chapter 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. 2. (a) Community living facilities to which total monthly regional center payments made pursuant to Section 4681 of the Welfare and Institutions Code, as amended by Chapter 85 of the Statutes of 1988, would exceed their total regional center payments made pursuant to Section 4681.1 of the Welfare and Institutions Code at the time of implementation of the Alternative Residential Model in their area, shall be eligible for payment at the higher level of payment between January 1, 1991, and June 30, 1991. The higher level of payment shall be determined by using the individual client rates established pursuant to Section 4681. Payment at the higher level shall be continued for each eligible facility until exceeded by the total regional center payment made pursuant to Section 4681.1.

(b) 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. 3. The sum of nineteen million four hundred twenty thousand dollars ($19,420,000) is hereby appropriated from the General Fund to the State Department of Developmental Services to augment appropriations made pursuant to Section 2 of Chapter 467 of the Statutes of 1990 for the following:

(a) Two million seven hundred thousand dollars ($2,700,000) to be included under subdivision (b) of Schedule 10.10 of Item 4300-101-001, for implementation of Section 2 of this act.

(b) Sixteen million one hundred twenty-two thousand dollars ($16,122,000) to be included under subdivision (b) of Schedule 10.10 of Item 4300-101-001, to offset regional centers' purchase of services deficit in the 1990 –91 fiscal year.

(c) Four hundred eighty-seven thousand dollars ($487,000) to be included under subdivision (a) of Schedule 10.10 of Item

4300-101-001, for regional center costs of the initial implementation of Chapter 13 (commencing with Section 4850) of Division 4.5 of the Welfare and Institutions Code, through June 30, 1991.

(d) One hundred eleven thousand dollars ($111,000) to be included under subdivision (c) of Schedule 35.01 of Item 4300-001-001 for the State Department of Developmental Services' cost of billing and collecting fees for case management services pursuant to subdivision (d) of Section 4852 of the Welfare and Institutions Code, through June 30, 1991.

SEC. 4. The Director of Developmental 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 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. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that sufficient funding is available to support regional center activities throughout the 1990–91 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 15

An act to amend Sections 17207 and 24347.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 15, 1991. Filed with Secretary of State March 15, 1991.]

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, (5) from earthquake,

aftershock, or any other related casualty occurring in 1989 in California, or (6) any loss sustained during 1990 as a result of fire or any other related casualty 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 adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted 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 adjusted 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.

(5) Any loss sustained during 1990 as the result of fire in the County of Santa Barbara.

(e) Losses described in this section may not be taken into account in computing a net operating loss deduction under Section 17201, as modified by Sections 17276, 17276.1, and 17276.2.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b) of the Internal Revenue Code.

SEC. 2. 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, any other related casualty occurring in October 1987, or (5) from earthquake, aftershock, or any related casualty occurring in October 1989, in California, or (6) any loss sustained during 1990 as a result of fire or any other related casualty 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.

(5) Any loss sustained during 1990 as the result of fire in the County of Santa Barbara.

(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 or 24416.1.

SEC. 3. This act provides for a tax levy within the meaning of

Article IV of the Constitution and shall go into immediate effect. However, unless otherwise specifically provided, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1989.

CHAPTER 16

An act to amend Section 1103 of the Evidence Code, relating to evidence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 15, 1991. Filed with Secretary of State March 18, 1991.]

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 , evidence of reputation, or evidence of specific instances of conduct) 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) In a criminal action, evidence of the defendant's character for violence or trait of character for violence (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) is not made inadmissible by Section 1101 if the evidence is offered by the prosecution to prove conduct of the defendant in conformity with the character or trait of character and is offered after evidence that the victim had a character for violence or a trait of character tending to show violence has been adduced by the defendant under paragraph (1) of subdivision (a).

(c) (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.

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 character evidence described in this act may be admissible at the earliest possible time and in order to correct the unintended consequences of the amendment made to Section 1103 of the Evidence Code by Chapter 268 of the Statutes of 1990, it is necessary that this act take effect immediately.

CHAPTER 17

An act to add Section 33012 to the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 20, 1991. Filed with Secretary of State March 21, 1991.]

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

SECTION 1. Section 33012 is added to the Health and Safety Code, to read:

33012. (a) "Financial burden or detriment" means either of the following:

(1) A net increase in the quality or quantity of a service of the affected taxing entity caused by the redevelopment project.

(2) A loss of property tax revenues by the affected taxing entity produced by a change of ownership or new construction which would have been received, or was reasonably expected to have been received, by the taxing entity if the redevelopment project was not established.

(b) The division of taxes pursuant to Section 33670, by itself, shall

not constitute a financial burden or detriment.

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 statutory guidance and reassurance to local officials in their negotiations over redevelopment projects, it is necessary to reenact a definition of "financial burden or detriment" which is identical to the definition which existed until January 1, 1991.

CHAPTER 18

An act relating to fire protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 24, 1991. Filed with Secretary of State March 25, 1991.]

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

SECTION 1. The sum of fifty-three million seven hundred fifty thousand dollars ($53,750,000) is hereby appropriated from the General Fund to the Department of Forestry and Fire Protection in augmentation of Item 3540-001-001 of Section 2.0 of the Budget Act of 1990, for emergency fire suppression costs incurred during the 1990–91 fiscal year.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the prolonged drought conditions and severe 1990–91 fire season as evidenced by the August 1990 siege, significant emergency fire suppression costs have been incurred by the department. It is therefore necessary that this act take effect immediately.

CHAPTER 19

An act to amend Section 23161 of the Vehicle Code, relating to driving offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1991. Filed with Secretary of State April 1, 1991.]

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

SECTION 1. Section 23161 of the Vehicle Code is amended to read:

23161. (a) Except as provided in subdivision (f), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000) and, if the person gives proof of ability to respond in damages as defined in Section 16430 to the Department of Motor Vehicles, have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. Whenever the driving privilege is restricted under this section, proof of ability to respond in damages as defined in Section 16430 shall be maintained for three years.

(b) (1) Each county shall, through the county alcohol program administrator, determine its ability to establish, through public or private resources, a program, which is self-supporting through fees collected from program participants, of alcohol or drug education and counseling services, of at least three months' duration and totaling at least 30 hours of direct education and counseling services, which shall be authorized by each county and licensed by, and operated under general regulations established by, the State Department of Alcohol and Drug Programs. A county which shows the State Department of Alcohol and Drug Programs that it has insufficient resources, insufficient potential program participants, or other material disadvantages is not required to establish such a

program.

(2) The State Department of Alcohol and Drug Programs may license an alcohol or drug education program that is less than 30 hours in length in any county where the board of supervisors has provided the showing pursuant to paragraph (1), and the State Department of Alcohol and Drug Programs has upheld that showing. The shorter program is subject to all other applicable regulations developed by that state department pursuant to paragraph (3) of subdivision (b) of Section 11837.4.

(3) Except as provided in paragraph (4), in any county where the board of supervisors has approved, and the State Department of Alcohol and Drug Programs has licensed , a program or programs described in paragraph (1) or (2), the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education and counseling program, or both of these programs, in the driver's county of residence or employment, as designated by the court.

(4) For persons who are active duty personnel in the United States Navy or Marine Corps, the court shall, unless the defendant requests otherwise, impose as a condition of probation that the driver shall participate in, and successfully complete, the Navy Alcohol Drug Safety Action Program rather than a program described in paragraph (1) or (2).

(c) Each county which has approved an alcohol or drug education program or programs and which is licensed by the State Department of Alcohol and Drug Programs shall make provision for persons who can document current inability to pay the program fee, in order to enable those persons to participate. The county shall require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(d) In order to assure effectiveness of the alcohol or drug education and counseling program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) (1) Any person required to successfully complete an alcohol or drug education and counseling program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person shall also participate in and successfully complete the program and, shall furnish proof of successful completion within the period of time and in the manner specified by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this paragraph.

(2) An alcohol or drug education and counseling program shall report to the court within the period of time and in the manner specified by the court any person who fails to successfully complete the program.

(3) The court, in establishing the reporting requirements in this subdivision, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the Department of Motor Vehicles and the State Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (1) failure to enroll in, or failure to successfully complete, the program, or (2) successful completion of the program as ordered.

(f) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to require, as soon as possible, specified driving offenders who are active duty personnel in the United States Navy or Marine Corps to participate in, and successfully complete, the Navy's Alcohol Drug Safety Action Program, it is necessary that this act take effect immediately.

CHAPTER 20

An act to amend Item 1390-046-758 of Section 2.00 of the Budget Act of 1990, relating to the Medical Board of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1991. Filed with Secretary of State April 1, 1991.]

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

SECTION 1. Item 1390-046-758 of Section 2.00 of the Budget Act of 1990, as amended by Chapter 1629 of the Statutes of 1990, is amended to read:

1390-046-758—For support of the Medical Board of California, payable from the Contingent Fund of the Medical Board of California		19,004,000
Schedule:		
(a) 63.10.010—Medical Board of California	20,222,000	

(b) 63.15—Registered Dispensing Opticians 194,000
(c) 63.10.020—Distributed Medical Board of California ..... −1,035,000
(d) Reimbursements ..... −183,000
(e) Amount payable from the Dispensing Optician's Fund (Item 1390-047-175) ..... −194,000

Provisions:

1. The board shall prepare three 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), November 30, 1990 (second report), and February 28, 1991 (third 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. The first and second reports shall include the number of unassigned investigative cases by date received, by priority category, and by physician and surgeon and allied health categories. The second and third reports shall also include the number of complaints received and the status of all unresolved complaints by age, investigative category, priority category, physician and surgeon and allied health categories. The board shall eliminate the unassigned investigative caseload by December 31, 1990, by assigning these cases to investigative staff. The board shall confirm this action in the third report.

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 Medical Board of California will be able to fulfill its legislatively mandated functions, it is necessary that this act take effect immediately.

CHAPTER 21

An act to amend Sections 19533.5 and 19605.5 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 17, 1991. Filed with Secretary of State April 18, 1991.]

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

SECTION 1. Section 19533.5 of the Business and Professions Code is amended to read:

19533.5. Notwithstanding Section 19533, the board may authorize the following mixed breed racing:

(a) An association licensed to conduct a quarter horse meeting to include Appaloosa races and Arabian races with the consent of the quarter horse horsemen's organization contracting with the association with respect to the conduct of the racing meeting.

(b) A race between a quarter horse and a thoroughbred horse at a thoroughbred meeting with the consent of the thoroughbred horsemen's organization contracting with the association with respect to the conduct of the racing meeting.

SEC. 2. Section 19605.5 of the Business and Professions Code is amended to read:

19605.5. Notwithstanding Sections 19605, 19605.1, and 19605.2, a satellite wagering facility may not be located within the County of Los Angeles or within the County of Orange, except as follows:

(a) If all of the conditions specified in subdivisions (a) to (d), inclusive, of Section 19605.3 are met, the Fiftieth District Agricultural Association may be authorized to operate a satellite wagering facility upon its fairgrounds in the City of Lancaster and to accept wagers on races conducted in the central and southern zones.

(b) If all other conditions are met, any fair or association licensed to conduct racing meetings in the County of Los Angeles, and any association other than a fair which is licensed to conduct racing in the County of Orange, may be authorized to operate a satellite wagering facility for the limited purpose of conducting satellite wagering on races conducted at the Twenty-Second District Agricultural Association fairgrounds at Del Mar in the County of San Diego. However, if a fair in Orange County is licensed for a racing meeting, a satellite wagering facility located within the racing inclosure of the fair where the racing meeting is conducted may not operate on the days that racing is conducted.

(c) If all other conditions are met, any association which is licensed to conduct harness or quarter horse racing in Orange County, may be authorized to operate a satellite wagering facility, located within the racing inclosure where the racing meetings are conducted, for the purpose of conducting satellite wagering on night

harness or quarter horse races conducted in the northern zone. However, if a fair in Orange County is licensed for a racing meeting, the association may not operate a satellite wagering facility located within the racing inclosure of the fair where the racing meeting is conducted on the days that racing is conducted.

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 maximize needed state revenue from increased wagering on racing meetings which can be conducted starting in 1991, it is necessary that this act take effect immediately.

CHAPTER 22

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 22, 1991. Filed with Secretary of State April 22, 1991.]

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

SECTION 1. This act may be cited as the First Validating Act of 1991.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and all of the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.
City maintenance districts.
Community college districts.
Community development commissions.
Community facilities districts.
Community rehabilitation districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
Cotton pest abatement districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Integrated financing districts.

Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local agency formation commissions.
Local health districts.
Local hospital districts.
Local transportation authorities.
Los Angeles County Transportation Commission.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional justice facility financing agencies.
Regional open-space districts.
Regional park and open-space districts.

Regional park districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Service authorities for freeway emergencies.
Service zones of fire protection districts.
Sewer maintenance districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Special community services districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county service areas.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments

evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the

contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period in which any action may be brought beyond the period

in which it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by those sections.

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:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 23

An act to amend Sections 53326 and 53327 of the Government Code, relating to community facilities districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 22, 1991. Filed with Secretary of State April 22, 1991.]

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

SECTION 1. Section 53326 of the Government Code is amended to read:

53326. (a) The legislative body shall then submit the levy of any special taxes to the qualified electors of the proposed community facilities district subject to the levy or to the qualified electors of the territory to be annexed by the community facilities district subject to the levy in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. Assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than

125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.

(b) Except as otherwise provided in subdivision (c), if at least 12 persons, who need not necessarily be the same 12 persons, have been registered to vote within the territory of the proposed community facilities district for each of the 90 days preceding the close of the protest hearing, the vote shall be by the registered voters of the proposed district, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed community facilities district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner. If the vote is by landowners pursuant to this subdivision, the legislative body shall determine that any facilities financed by the district are necessary to meet increased demands placed upon local agencies as the result of development or rehabilitation occurring in the district.

(c) If the proposed special tax will not be apportioned in any tax year on any portion of property in residential use in that tax year, as determined by the legislative body, the legislative body may provide that the vote shall be by the landowners of the proposed district whose property would be subject to the tax if it were levied at the time of the election. Each of these landowners shall have one vote for each acre, or portion thereof, that the landowner owns within the proposed district which would be subject to the proposed tax if it were levied at the time of the election.

(d) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

SEC. 2. Section 53327 of the Government Code is amended to read:

53327. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included

in the ballot material provided to each voter, an impartial analysis pursuant to Section 3781 or 5011 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 3782 to 3787, inclusive, and 3795 of the Elections Code or pursuant to Sections 5012 to 5016, inclusive, and 5025 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election, and when the local agency is a school district and the vote is to be by the landowners of the proposed district, its legislative body may authorize an official of the district to conduct the election.

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:

Responsible planning within school districts experiencing explosive growth requires that annexations contemplated be accomplished in the most expeditious manner. In order to address pressing needs, it is essential that this act take immediate effect.

CHAPTER 24

An act to amend Section 798.17 of the Civil Code, relating to mobilehome parks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 6, 1991 Filed with Secretary of State May 7, 1991]

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

SECTION 1. Section 798.17 of the Civil Code is amended to read:

798.17. (a) Rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of such a rental agreement shall prevail over conflicting provisions of such an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

The first paragraph of a rental agreement entered into pursuant to this section shall contain a provision notifying the homeowner that

the rental agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the following criteria:

(1) The rental agreement shall be in excess of 12 months' duration.

(2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.

(3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement.

(4) The homeowner who executes a rental agreement offered pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement.

(c) The homeowner shall have the option to reject the offered rental agreement and instead accept a rental agreement for a term of 12 months or less from the date the offered rental agreement begins. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month rental agreement, the rental agreement shall contain the same "rental charges" terms and conditions as the offered rental agreement during the first 12 months, except for options contained in the offered rental agreement to extend or renew the rental agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

(e) With respect to any space in a mobilehome park which is exempt under subdivision (a) from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the mobilehome park shall be exempt from any fee or other exaction imposed pursuant to such an ordinance, rule, regulation, or initiative measure or imposed for the purpose of defraying the cost of administration thereof.

(f) This section does not apply to or supersede other provisions of this part or other state law.

SEC. 2. The amendments to Section 798.17 of the Civil Code set forth in Section 1 of this act shall become operative on May 10, 1991, or the effective date of this act, whichever is later.

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

Due to the inadvertent preemption of local ordinances by Chapter 1046 of the Statutes of 1990, it is the intent of the Legislature to repeal the changes made by Chapter 1046 of the Statutes of 1990 and to reinstate the state law as it existed on December 31, 1990. It is therefore necessary that this act take effect immediately.

CHAPTER 25

An act relating to the Secretary of State, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 10, 1991. Filed with Secretary of State May 10, 1991.]

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

SECTION 1. The sum of seven million two hundred sixty-three thousand dollars ($7,263,000) is hereby appropriated from the General Fund to the Secretary of State in augmentation of category (c) of Item 0890-001-001 of Section 2 of Chapter 467 of the Statutes of 1990, for allocation in accordance with the following schedule:

(a) Three million two hundred forty thousand dollars ($3,240,000) for the principal pamphlet.

(b) Four million twenty-three thousand dollars ($4,023,000) for the supplemental pamphlet.

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 Secretary of State may satisfy contractual obligations with the State Printing Plant concerning payment for services rendered during the 1990–91 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 26

An act to amend Section 18990 of, to amend the heading of Article 5 (commencing with Section 18990) of Chapter 4 of Part 2 of Division 5 of Title 2 of, to add Section 18992 to, and to add and repeal Section 18991 of, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 10, 1991. Filed with Secretary of State May 10, 1991.]

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

SECTION 1. The heading of Article 5 (commencing with Section 18990) of Chapter 4 of Part 2 of Division 5 of Title 2 of the Government Code is amended to read:

Article 5. Exempt Employees

SEC. 2. Section 18990 of the Government Code is amended to read:

18990. (a) Notwithstanding any other provision of law or rule, persons employed by the Legislature for two or more consecutive years shall be eligible to apply for promotional civil service examinations, including examinations for career executive assignments, for which they meet the minimum qualifications as prescribed by the class specification. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related legislative experience shall be considered state civil service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

(c) Employees who meet the requirements of this section, are employed by the Legislature as of January 1, 1991, and who resign or are released from service due to a force reduction of the Legislature before January 1, 1992, shall be eligible to take promotional civil service examinations, including examinations for career executive assignments, for three years following their resignation or release in accordance with subdivisions (a) and (b).

(d) An employee who establishes eligibility on a promotional civil service list, either pursuant to subdivision (c) or prior to having resigned or having been released in a manner to which subdivision (c) would apply, shall maintain that eligibility for the duration of that particular list.

SEC. 3. Section 18991 is added to the Government Code, to read:

18991. (a) Notwithstanding any other provision of law or rule, persons, whether current or former employees of the Legislature, employed by the Legislature for two or more years and who were

employed by the Legislature as of January 1, 1991, shall be given an opportunity upon request to obtain civil service appointment eligibility, through a deferred examination, for any position offered by any appointing power in any class for which a current eligible list exists and for which they meet the minimum qualifications as prescribed by the class specification. In evaluating minimum qualifications, related legislative experience shall be considered state civil service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) Persons eligible for deferred examinations pursuant to subdivision (a), shall be given an examination within 30 days, whenever possible, but not more than 180 days from the date of the request.

(c) In cases where lists exist in more than one department for the same classification, the employee shall select one department in which to compete by deferred examination. Once this selection is made, it cannot be changed for the duration of the list. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

(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. 4. Section 18992 is added to the Government Code, to read:

18992. (a) Notwithstanding any other provision of law or rule, persons holding, for two or more consecutive years, nonelected exempt positions in the executive branch of government as defined in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article VII of the Constitution and excluding those positions for which the salaries are set by statute, shall be eligible to apply for promotional civil service examinations, including, but not limited to, examinations for career executive assignments for which they meet the minimum qualifications as prescribed by the class specification. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related exempt experience shall be considered state civil service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

(c) Employees who meet the requirements of this section and resign from exempt employment of the executive branch of government shall have the same rights and eligibility to take

promotional civil service examinations and maintain promotional list eligibility as is provided to permanent civil service employees who resign from civil service.

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 facilitate the movement of legislative employees into state civil service employment at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 27

An act to amend Section 16024 of, to add Section 16078 to, and to repeal Sections 16106, 16167, and 16208 of, the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 12, 1991. Filed with Secretary of State May 13, 1991.]

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

SECTION 1. Section 16024 of the Education Code is amended to read:

16024. Each school district that desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in the form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment. Before the board approves an application for a construction project and makes an apportionment pursuant to this chapter, it shall, after consultation with the Department of General Services, establish standards for all new construction included therein. After this consultation the board shall establish current construction cost standards for that construction. The standards shall not exceed typical comparable new construction by school districts in the same area not receiving or eligible for apportionment under this chapter, or if there has been no new construction by school districts in the area, the standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine these typical current costs or reasonable current costs. In applying those standards the board shall take into account the size and type of the construction proposed and may make deviations as in their judgment are justified. When a standard has been set by the board to cover any individual

apportionment, no apportionment shall be made by the board in excess of that standard, unless the board shall find that in view of a rapid increase in building costs an adjustment is warranted. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A school district shall not let any contract for new construction included in an application for a construction project that has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for that new construction.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The board shall require the changes in the plans that an applicant school district submits with its application as the board determines is necessary or desirable to reduce the cost of the project. The board may also, by rule, provide for the vesting in the director or in the Director of General Services of the responsibility for requiring those changes, according to whether the subject matter of the change is subject to the jurisdiction or approval of the director or the Director of General Services, respectively.

The board may, for good cause as it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a school district under the terms of an apportionment, other than any contribution required of the district under Section 16058 from the sale of bonds; provided, that the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount that the school district can contribute toward the cost of the project out of its available funds, and shall submit his or her report thereon to the board.

The term "available funds" as used in the preceding paragraph means funds of the district other than funds received by gift or bequest.

The director shall, as promptly as possible, prepare a report and

recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he or she finds the documents to be in proper form and otherwise sufficient, refer them to the board. If the director finds the documents to be lacking in any respect as to any matter that is subject to the jurisdiction or approval of the director or the State Department of Education, or the board of governors, as appropriate to their jurisdiction, he or she shall refer them to the director who shall take action as may be necessary. Subject to this chapter, the board shall approve or reject each application referred to it by the director. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or any portion thereof as the board may deem appropriate; provided, that it may order that the apportionment or any part thereof shall be paid in progressive installments at the time and under the conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16058 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of 12 months from the date of the resolution of the board, and if it does not become a final apportionment by that date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

SEC. 1.5. Section 16078 is added to the Education Code, to read:

16078. Notwithstanding any other provision of this chapter, the total amount of the repayment made each year by each school district to which one or more apportionments have been made under this chapter shall not be less than the amount of the cost to the state for that year to pay principal and interest on the bonded indebtedness incurred to fund the apportionment or apportionments made to that district.

SEC. 2. Section 16106 of the Education Code is repealed.

SEC. 3. Section 16167 of the Education Code is repealed.

SEC. 4. Section 16208 of the Education Code is repealed.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for certain school districts presently unable to qualify for certain funds needed for capital outlay, to qualify for and receive those funds as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 28

An act to add and repeal Section 73 of the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 14, 1991. Filed with Secretary of State May 14, 1991.]

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

SECTION 1. Section 73 is added to the Revenue and Taxation Code, to read:

73. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed" does not include the construction or addition of any active solar energy system.

(b) For purposes of this section, "active solar energy system" means a system which uses solar devices thermally isolated from living space or other area where the energy is used to provide for collection, storage or distribution of solar energy. These solar systems may be used for any of the following:

(1) Domestic, recreational, therapeutic, or service water heating.

(2) Space conditioning.

(3) Production of electricity.

(4) Process heat.

(5) Solar mechanical energy.

For purposes of this section, "active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

(c) (1) For purposes of paragraph (3) of subdivision (b), an "active solar energy system" that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other collectors. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity.

(2) An "active solar energy system" that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are "active solar energy system" property only to the extent of 75 percent of their full cash value.

(3) An "active solar energy system" that uses solar energy in the production of electricity does not include equipment (auxiliary equipment), such as furnaces and hot water heaters, that use a source

of power other than solar energy to provide usable energy. An "active solar energy system" that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment (dual use equipment). That equipment is an "active solar energy system" property only to the extent of 75 percent of its full cash value.

(d) This section shall apply to lien dates for the 1991–92 to 1993–94 fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction completed on or after January 1, 1991. 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 chaptered before January 1, 1995, deletes or extends that date.

SEC. 2. For purposes of subdivision (c) of Section 73 of the Revenue and Taxation Code, as added by Section 1 of this act, it is the intent of the Legislature, in defining an "active solar energy system" that uses solar energy in the production of electricity, to define that term as "solar energy property" is defined by Section 48 (1) (4) of the Internal Revenue Code of 1986 and Section 1.48-9 (d) (3), (4), and (6) of Title 26 of the Code of Federal Regulations, as those provisions were in effect on January 1, 1990, with the following exceptions:

(1) The "annual measuring period" provisions contained in Section 1.48-9 (d) (4) and (6) shall not apply.

(2) Pipes, ducts, and other dual use equipment shall be considered to be solar energy property to the extent of 75 percent of their full cash value regardless of the relative input of solar and nonsolar energy to that equipment.

(3) Equipment using wind energy as a source of power to produce energy shall not be included in the meaning of an "active solar energy system" that uses solar energy to produce electricity.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election. 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 preserve at the earliest possible time meaningful incentives for the development of nonpolluting, domestically produced energy, it is necessary that this act take effect immediately.

CHAPTER 29

An act to amend Section 53314.6 of, and to add Section 53313.8 to, the Government Code, relating to community facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 16, 1991 Filed with Secretary of State May 17, 1991]

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

SECTION 1. Section 53313.8 is added to the Government Code, to read:

53313.8. Pursuant to Section 53313.5, a community facilities district may also finance the acquisition improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes described in subdivision (e) of Section 53313.

SEC. 2. Section 53314.6 of the Government Code is amended to read:

53314.6. (a) In connection with the financing of services and facilities pursuant to subdivision (e) of Section 53313 and Section 53313.8, the legislative body may establish a revolving fund to be kept in the treasury of the district. Except as provided in subdivision (b) of this section, moneys in the revolving fund shall be expended solely for the payment of costs with respect to those services and facilities. The revolving fund may be funded from time to time with moneys derived from any of the following:

(1) Proceeds of the sale of bonds issued pursuant to Article 5 (commencing with Section 53345), notwithstanding any limitation contained in Section 53345.3.

(2) Any taxes or charges authorized under this chapter.

(3) Any other lawful source.

(b) Subject to the provisions of any resolution, trust agreement or indenture providing for the issuance of district bonds for the purposes set forth in Section 53313.8, the legislative body may withdraw money from the revolving fund whenever and to the extent that it finds that the amount of money therein exceeds the amount necessary to accomplish the purposes for which the revolving fund was established. Any moneys withdrawn from the revolving fund shall be used to redeem bonds of the district issued for the purposes set forth in Section 53313.8 or shall be paid to taxpayers in the district in amounts which the legislative body determines.

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

Due to an inadvertent conflict with another act in the 1989–90

Regular Session of the Legislature the proposed provisions now contained in this act were negated. Uncontrolled hazardous waste sites pose a threat to the public health and safety, and delays in cleanup of these sites due to the difficulty of obtaining financing of cleanup activities may result in more widespread contamination, including pollution of drinking water sources. In order to enhance the ability of local governments to finance these activities without delay, it is necessary that this act take effect immediately.

CHAPTER 30

An act to amend Section 68500.5 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 16, 1991. Filed with Secretary of State May 17, 1991]

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

SECTION 1. Section 68500.5 of the Government Code is amended to read:

68500.5. The annual salary of the Administrative Director of the Courts shall be the same as the salary of a judge of the court of appeal, and shall be paid out of appropriations for the support of the Judicial Council.

The salary of a judge of a court of appeal means the salary of a judge first appointed to the court of appeal after January 1, 1982.

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 qualifications for the Administrative Director of the Courts may be revised at the earliest possible time, thus enabling a broadening of the scope of the search for an Administrative Director of the Courts, an office vital to the efficient functioning of the courts, it is necessary that this act take effect immediately.

CHAPTER 31

An act to amend Section 16112.7 of the Government Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 16, 1991 Filed with Secretary of State May 17, 1991.]

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

SECTION 1. Section 16112.7 of the Government Code is amended 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.

(f) Notwithstanding the prohibition contained in subdivision (e), relating to the pledge of amounts received pursuant to Section 16111 as security for the payment of bonds, a redevelopment agency within a city with a population of less than 20,000 which receives amounts pursuant to Section 16111 in the 1989–90 fiscal year in excess of one million five hundred thousand dollars ($1,500,000) but less than two million five hundred thousand dollars ($2,500,000), may pledge amounts received pursuant to Section 16111, which amounts shall not be less than the amounts allocated to the agency for the 1984–85 fiscal year, as security for the payment of the principal and interest on bonds issued prior to January 1, 1992.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the continued funding of redevelopment projects which serve to remedy the effects of blight in certain areas, it is necessary that this act take immediate effect.

CHAPTER 32

An act to amend Section 27803 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 20, 1991. Filed with Secretary of State May 20, 1991.]

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

SECTION 1. Section 27803 of the Vehicle Code is amended to read:

27803. (a) A driver and any passenger shall wear a safety helmet meeting requirements established pursuant to Section 27802 when riding on a motorcycle, motor-driven cycle, or motorized bicycle.

(b) It is unlawful to operate a motorcycle, motor-driven cycle, or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).

(c) It is unlawful to ride as a passenger on a motorcycle, motor-driven cycles, or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).

(d) This section applies to persons who are riding on motorcycles, motor-driven cycles, or motorized bicycles operated on the highways.

(e) For the purposes of this section, "wear a safety helmet" or "wearing a safety helmet" means having a safety helmet meeting the

requirements of Section 27802 on the person's head that is fastened with the helmet straps and that is of a size that fits the wearing person's head securely without excessive lateral or vertical movement.

(f) In enacting this section, it is the intent of the Legislature to ensure that all persons are provided with an additional safety benefit while operating or riding a motorcycle, motor-driven cycle, or motorized bicycle.

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 33

An act relating to public assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 20, 1991. Filed with Secretary of State May 20, 1991.]

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

SECTION 1. The unencumbered balance of funds transferred to subdivision (a) of Item 6870-101-001 from those funds appropriated by Section 22 of Chapter 93 of the Statutes of 1989 for support of the Greater Avenues for Independence (GAIN) program as of February 28, 1991, is reappropriated for the 1990–91 fiscal year to subdivision (a) of Item 6870-101-001 of Chapter 467 of the Statutes of 1990 for the purposes specified in paragraph (1) of subdivision (c) of Section 22.00 of Chapter 467.

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 stabilize funding for the Greater Avenues for Independence programs at community colleges at the earliest possible time and to maintain access for those students to education so they may acquire basic skills to compete in the labor force, it is necessary that this act take effect immediately.

CHAPTER 34

An act to amend Section 3 of Chapter 7 of the 1987–88 First Extraordinary Session, as amended by Chapter 1562 of the Statutes of 1988, relating to earthquake disaster relief, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 28, 1991. Filed with Secretary of State May 28, 1991.]

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

SECTION 1. Section 3 of Chapter 7 of the 1987–88 First Extraordinary Session, as amended by Chapter 1562 of the Statutes of 1988, is amended to read:

Sec. 3. (a) The sum of forty-six million five hundred thousand dollars ($46,500,000) is hereby transferred from the Special Fund for Economic Uncertainties to the Disaster Response-Emergency Operations Account for allocation by the Director of Finance in accordance with Section 8690.6 of the Government Code and this section.

(b) Of the funds transferred pursuant to subdivision (a), the sum of thirty-four million five hundred thousand dollars ($34,500,000) shall be allocated to the 1987 Southern California Earthquake Account for assistance to local agencies.

(c) Of the funds transferred pursuant to subdivision (a), the sum of one million eight hundred thousand dollars ($1,800,000) shall be allocated to the 1987 Southern California Earthquake Account for assistance to state agencies.

(d) In addition to any other amounts appropriated in this or any other statute, of the funds appropriated pursuant to subdivision (a), the sum of ten million two hundred thousand dollars ($10,200,000) shall be allocated to the Superintendent of Public Instruction for allocation to school districts and county offices of education.

These funds may only be expended for expenses incurred as a result of the October 1, 1987, earthquake and aftershocks that do not qualify for funding under Section 7 of Public Law 81-874, 20 USC Section 241-1, and do not qualify as minimum school facilities under the regulations implementing Section 16 of Public Law 81-815, 20 USC Section 646.

(e) The funds appropriated in this section shall be available for expenditure until June 30, 1992.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that all eligible local agencies and school districts affected by the October 1987 southern California earthquake and aftershocks are able to take full advantage of

available state assistance, thereby protecting the public health and safety, it is necessary that this act take effect immediately.

CHAPTER 35

An act to amend Sections 99313.6 and 99314.5 of, to add Section 99314.7 to, and to repeal and add Section 99314.6 of, the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 28, 1991. Filed with Secretary of State May 28, 1991.]

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

SECTION 1. Section 99313.6 of the Public Utilities Code, as amended by Chapter 13 of the Statutes of 1991, 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, and to claimants for the purposes specified in Section 99275 and in subdivisions (b), (c), (d), and (e) of 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. 1.3. Section 99314.5 of the Public Utilities Code, as amended by Chapter 13 of the Statutes of 1991, 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 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, 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 the purposes specified in subdivisions (b), (c), (d), and (e) 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. 1.7. Section 99314.6 of the Public Utilities Code is repealed.

SEC. 2. Section 99314.6 is added to the Public Utilities Code, to read:

99314.6. Except as provided in Section 99314.7, the following eligibility standards apply:

(a) Except as provided in subdivision (b), funds shall not be fully allocated for operating purposes pursuant to Sections 99313 and 99314 to an operator unless the operator meets either of the following efficiency standards:

(1) The operator's total operating cost per revenue vehicle hour in the latest year for which audited data are available does not exceed the sum of the preceding year's total operating cost per revenue vehicle hour and an amount equal to the product of the percentage change in the Consumer Price Index for the same period multiplied by the preceding year's total operating cost per revenue vehicle hour.

(2) The operator's average total operating cost per revenue vehicle hour in the latest three years for which audited data are available does not exceed the sum of the average of the total operating cost per revenue vehicle hour in the three years preceding the latest year for which audited data are available and an amount equal to the product of the average percentage change in the Consumer Price Index for the same period multiplied by the average total operating cost per revenue vehicle hour in the same three years.

(b) The transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, may adjust the calculation of operating costs and revenue vehicle hours pursuant to subdivision (a) to account for either or both of the following factors as it deems

appropriate to encourage progress in achieving the objectives of efficiency, effectiveness, and productivity pursuant to Section 99244:

(1) Exclusion of costs increases beyond the change in the Consumer Price Index for fuel, alternative fuel programs, insurance, or state or federal mandates.

(2) Exclusion of startup costs for new services for a period of not more than two years.

(c) Funds withheld from allocation to an operator pursuant to subdivision (a) shall be retained by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, for reallocation to that operator for two years following the year of ineligibility. In a year in which an operator's funds are fully allocated pursuant to subdivision (a), funds withheld from allocation during a preceding year shall also be fully allocated. Funds not allocated before the commencement of the third year following the year of ineligibility shall be reallocated to cost-effective high priority regional transit activities, as determined by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be. If that agency or commission, or the board, determines that no cost-effective high priority regional transit activity exists, the unallocated funds shall revert to the Controller for reallocation.

(d) As used in this section, the following terms have the following meanings:

(1) "Operating cost" means the total operating cost as reported by the operator under the Uniform System of Accounts and Records, pursuant to Section 99243 and subdivision (a) of Section 99247.

(2) "Revenue vehicle hours" has the same meaning as "vehicle service hours," as defined in subdivision (h) of Section 99247.

(3) "Consumer Price Index," as applied to an operator, is the regional Consumer Price Index for that operator's region, as published by the United States Bureau of Labor Statistics. If a regional index is not published, the index for the State of California applies.

(4) "New service" has the same meaning as "extension of public transportation services" as defined in Section 99268.8.

SEC. 3. Section 99314.7 is added to the Public Utilities Code, to read:

99314.7. (a) In allocating funds for operating purposes pursuant to Sections 99313 and 99314, the Metropolitan Transportation Commission shall apply the following eligibility standards to the operators within the region subject to its jurisdiction:

(1) An operator is not eligible for its full allocation under this section unless the operator has been found to have made reasonable effort in implementing productivity improvements pursuant to Section 99244. In determining whether a reasonable effort has been made, the Metropolitan Transportation Commission shall give consideration to whether the operator would qualify for funding

under Section 99314.6. The amount of funds allocated shall be reduced in an amount that the Metropolitan Transportation Commission deems proportionate to the failure of the operator to implement the recommended improvements. The Metropolitan Transportation Commission shall adopt rules and regulations, in cooperation with the affected operators, governing the allocation of any funds withheld under this paragraph, subject to paragraphs (2) and (3).

(2) Notwithstanding paragraph (1), an operator shall not receive any funds pursuant to Section 99313 or 99314 unless it has complied with the applicable rules and regulations adopted by the Metropolitan Transportation Commission pursuant to Section 66516 of the Government Code.

(3) Funds withheld from allocation to an operator pursuant to paragraph (1) shall be retained by the Metropolitan Transportation Commission for reallocation to that operator for two years following the year of ineligibility. With respect to the funds withheld from an operator pursuant to paragraph (1), the Metropolitan Transportation Commission shall reallocate those funds to the operator if the operator complies with that paragraph within two years. Funds not reallocated to the operator, and funds withheld pursuant to paragraph (2), shall be allocated to any eligible operator within the region subject to the jurisdiction of the Metropolitan Transportation Commission for the purpose of improving coordination among the operators, or to any operator whose increase in total operating cost per revenue vehicle hour is less than the increase in the Consumer Price Index. Funds allocated for these purposes are exempt from subdivision (a). For purposes of this section, "operating cost," "revenue vehicle hour," and "Consumer Price Index" have the same meaning as defined in Section 99314.6.

(b) (1) The Metropolitan Transportation Commission shall not allocate any funds after January 1, 1994, unless the Legislature either extends that date or enacts new eligibility standards for operators subject to the jurisdiction of the Metropolitan Transportation Commission.

(2) Funds withheld from allocation pursuant to this subdivision shall be retained by the Metropolitan Transportation Commission for allocation to operators only after the Legislature enacts either of the provisions specified in paragraph (1).

SEC. 4. The Legislature finds and declares that the Loma Prieta earthquake of 1989 caused damage to commercial property and employment losses, with consequent reductions in sales tax revenues, within the Santa Cruz Metropolitan Transit District to the economic detriment of that district. Accordingly, that district is exempt from Section 99314.6 of the Public Utilities Code until July 1, 1993.

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 sales and use tax revenues resulting from the increase in the gas tax and diesel tax may be made available for transit operations in accordance with the eligibility criteria prescribed by this act, it is necessary that this act take effect immediately.

CHAPTER 36

An act to amend Section 394 of the Military and Veterans Code, relating to military and veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 28, 1991. Filed with Secretary of State May 28, 1991.]

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

SECTION 1. Section 394 of the Military and Veterans Code is amended to read:

394. (a) No person shall discriminate against any officer, warrant officer or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any person, employer, or officer or agent of any corporation, company, or firm with respect to that member's employment, position or status or be denied or disqualified for employment by virtue of membership or service in the military forces of this state or of the United States.

(b) No officer or employee of the state, or of any county, city and county, municipal corporation, or district shall discriminate against any officer, warrant officer or enlisted member of the military or naval forces of the state or of the United States because of that membership. No member of the military forces shall be prejudiced or injured by any officer or employee of the state, or of any county, city and county, municipal corporation, or district with respect to that member's employment, appointment, position or status or be denied or disqualified for or discharged from that employment or position by virtue of membership or service in the military forces of this state or of the United States.

(c) No person shall prohibit or refuse entrance to any officer or enlisted member of the Army or Navy of the United States or of the military or naval forces of this state into any public entertainment or place of amusement or into any of the places described in Sections 51 and 52 of the Civil Code because that member wears the uniform of the organization to which he or she belongs.

(d) No employer or officer or agent of any corporation, company, or firm, or other person, shall discharge any person from employment because of the performance of any ordered military duty or training or by reason of being an officer, warrant officer, or

enlisted member of the military or naval forces of this state, or hinder or prevent that person from performing any military service or from attending any military encampment or place of drill or instruction he or she may be called upon to perform or attend by proper authority; prejudice or harm him or her in any manner in his or her employment, position, or status by reason of performance of military service or duty or attendance at military encampments or places of drill or instruction; or dissuade, prevent, or stop any person from enlistment or accepting a warrant or commission in the California National Guard or Naval Militia by threat or injury to him or her in respect to his or her employment, position, status, trade, or business because of enlistment or acceptance of a warrant or commission.

(e) (1) No private employer or officer or agent of any corporation, company, or firm, or other person, shall restrict or terminate any collateral benefit for employees by reason of an employee's temporary incapacitation incident to duty in the National Guard or Naval Militia. As used in this subdivision, "temporary incapacitation" means any period of incapacitation of 52 weeks or less.

(2) As used in this subdivision, "benefit" includes, but is not limited to, health care which may be continued at the employee's expense, life insurance, disability insurance, and seniority status.

(f) Any person violating this section is guilty of a misdemeanor. In addition, any person violating any of the provisions of this section shall be liable for actual damages and reasonable attorney's fees incurred by the injured party.

(g) The remedies provided for in this section are not intended to be exclusive but are in addition to the remedies provided for in other laws, including Sections 51 and 52 of the Civil Code.

SEC. 2. It is the intent of the Legislature that persons who are members of the military services not be harmed by virtue of that membership, with respect to their employment.

It is further the intent of the Legislature to clarify that discrimination prohibited under subdivision (c) of Section 394 of the Military and Veterans Code is also prohibited by Sections 51 and 52 of the Civil Code, which apply to all arbitrary discrimination by business establishments.

By providing a civil remedy for the class of persons covered by this legislation, the Legislature does not intend to limit the availability of a similar remedy for other forms of arbitrary discrimination which are not specifically listed in this act or in Sections 51 and 52 of the Civil Code.

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

With the end of hostilities in the Persian Gulf, many thousands of military reservists are returning home. Many of these reservists may encounter some resistance from their employers in returning to their

prior positions. Therefore, in order to address the need for the remedies in this act in a timely manner, it is necessary for this act to take effect immediately.

CHAPTER 37

An act to amend Sections 57149, 57175, 57176, 57200, 57202, and 57203 of the Government Code, relating to local government organization, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 28, 1991 Filed with Secretary of State May 28, 1991.]

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

SECTION 1. Section 57149 of the Government Code is amended to read:

57149. The canvass of ballots cast at any election held pursuant to this division shall be conducted pursuant to Sections 17080 to 17089, inclusive, of the Elections Code. The clerk shall immediately, upon the completion of any canvass, report the results to both the conducting authority and the executive officer of the local agency formation commission.

SEC. 2. Section 57175 of the Government Code is amended to read:

57175. After the canvass of the returns of any election or elections called on the question of a change of organization or reorganization, the conducting authority shall, within 30 days of the canvass of the election, declare by resolution the total number of votes cast in the election or elections, and the number of votes cast for and against the change of organization or reorganization.

SEC. 3. Section 57176 of the Government Code is amended to read:

57176. (a) The conducting authority shall adopt, within 30 days of the canvass of the election, a resolution confirming the order of the change of organization or reorganization if a majority of votes cast upon the question are in favor of the change of organization or reorganization in any of the following circumstances:

(1) At an election called in the territory ordered to be organized or reorganized.

(2) At an election called within the territory ordered to be organized or reorganized and within the territory of the affected agency. The clerk of the conducting authority shall cause a copy of the resolution confirming the order of organization or reorganization to be filed with the executive officer.

(3) At both an election called within the area to be organized or reorganized and an election called within the territory of an affected

city, when required by the commission pursuant to Section 56850.

(b) If the conducting authority does not adopt a resolution confirming the order of the change of organization or reorganization within 30 days of the canvass of an election in which the majority of the votes cast were in favor of a change of organization or reorganization, then the resolution, which shall substantially conform with the resolution adopted by the commission pursuant to Section 56851, shall be deemed adopted and the executive officer of the local agency formation commission shall complete the proceedings and execute the order.

SEC. 4. Section 57200 of the Government Code is amended to read:

57200. (a) Immediately after adoption of a resolution ordering a change of organization or reorganization without election or a resolution confirming an order for a change of organization or reorganization after confirmation by the voters, the clerk of the conducting authority shall transmit a certified copy of the resolution along with a remittance to cover the fees required by Section 54902.5 to the executive officer.

(b) The executive officer shall, within 30 days of receiving the resolution, examine the resolution and determine whether it is in compliance with the boundaries, modifications, and conditions specified by the commission in its resolution making determinations.

(1) If the resolution ordering the change of organization or reorganization is determined not to be in compliance by the executive officer, the executive officer shall specify in writing the points of noncompliance and within 30 days of receipt of the resolution return the resolution to the conducting authority for modification.

(2) If the resolution ordering the change of organization or reorganization is determined to be in compliance by the executive officer, or was deemed adopted by operation of law, the executive officer shall prepare and execute a certificate of completion and shall make the filings required by this division.

(c) Whenever the commission approves the inclusion of any territory of a landscape and lighting assessment district within a city, the executive officer shall, upon receipt of the resolution specified in subdivision (a), notify the clerk of the landscape and lighting assessment district or other person designated by the district to receive notification.

SEC. 5. Section 57202 of the Government Code is amended to read:

57202. (a) If an effective date is fixed in the terms and conditions of the commission resolution, that date shall be the effective date.

An effective date shall not be fixed which is either of the following:

(1) Earlier than the date of execution of the certificate of completion.

(2) Later than nine months after the date of the election in which a majority voted in favor of the change of organization or

reorganization.

(b) The change of organization or reorganization shall be complete from the date of execution of the certificate of completion and effective from the dates specified in the terms and conditions of the commission resolution, unless no effective date has been fixed in those terms and conditions.

(c) If no effective date has been fixed in any of the terms and conditions, the effective date of a change of organization or a reorganization shall be the date of the recordation made with the county recorder and, if filed with the recorder of more than one county, the date of the last such recordation.

(d) The commission shall set an effective date for any incorporation. The authority of the commission to set the date of incorporation shall be exclusive, except as provided in Section 57203.

SEC. 6. Section 57203 of the Government Code is amended to read:

57203. The executive officer shall record, no later than 90 days after the election, a certified copy of the certificate of completion with the county recorder of each county in which all or any part of the territory included in the change of organization or reorganization is located, and shall file a certified copy of the certificate of completion, indicating the recording numbers affixed by the county recorder, with the clerk of the legislative body of each local agency subject to the change of organization or reorganization. If the executive officer is for any reason unable to comply with this section, the Secretary of State, upon confirmation by the county recorder that the certificate of completion has not been recorded within the time period provided in this section, may perform the duties of the executive officer upon receiving notice of the failure of the executive officer to so perform.

After recordation of the certificate of completion by the executive officer, the recorder shall file with the county surveyor a copy of the boundary description included in the certificate of completion as provided by subdivision (c) of Section 57201.

SEC. 7. The Legislature finds and declares that in 1987, proceedings began under the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) to incorporate the City of Malibu. The Legislature further finds and declares that the process took an exceptional amount of time due to continued delays by the County of Los Angeles. The Legislature further finds that the County of Los Angeles adopted a resolution on March 29, 1990, setting the Malibu cityhood election for June 5, 1990, and ordering that the executive officer of the local agency formation commission be requested to file the necessary statements and maps prior to January 1, 1991, to assure city tax collections. The Legislature further finds that the executive officer of the local agency formation commission was unable to file the necessary statements and maps because the board of supervisors failed to adopt and file a final resolution

confirming the order of incorporation with the executive officer in a timely manner following the 84-percent affirmative vote. The Legislature further finds that an extension of time from a deadline to file with the State Board of Equalization is necessary in order that the City of Malibu not be denied its allocation of property taxes for the 1991-92 fiscal year.

SEC. 8. Due to the unique circumstances surrounding the incorporation of the Cities of Malibu , Murrieta, and Calabasas, 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 and that a special statute is necessary.

SEC. 9. Notwithstanding the provisions of Sections 54902, 54902.1, and 54903 of the Government Code, the incorporation of the City of Malibu shall be effective for assessment and taxation purposes for the 1991-92 fiscal year if the required statements and maps are filed with the State Board of Equalization on or before June 30, 1991.

SEC. 10. Notwithstanding the provisions of the Cortese-Knox Local Government Reorganization Act of 1985 or the County Service Area Law, the territory within the proposed City of Murrieta in the County of Riverside shall not be detached or excluded from County Service Areas 103 and 143 on the effective date of the incorporation of the City of Murrieta. In order to protect the public peace, health, and safety of the residents and landowners of that territory, it is necessary that County Service Areas 103 and 143 continue to serve this territory and that the currently existing tax rate areas remain in effect. Nothing in this section shall prevent a subsequent detachment of this territory from County Service Areas 103 and 143 after July 1, 1991, pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 7 of the Government Code.

SEC. 11. (a) The Legislature finds and declares that because the City of Calabasas was incorporated on April 5, 1991, it was unable to file the necessary statements and maps before December 31, 1990, in order to receive its allocation of property taxes for the 1991–92 fiscal year and that the City of Calabasas shall be permitted to file those statements and maps with the State Board of Equalization in order that the City of Calabasas not be denied its allocation or property taxes for the 1991–92 fiscal year.

(b) Notwithstanding the provisions of Sections 54902, 54902.1, and 54903 of the Government Code, the incorporation of the City of Calabasas shall be effective for assessment and taxation purposes for the 1991–92 fiscal year if the required statements and maps are filed with the State Board of Equalization on or before June 30, 1991.

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 City of Malibu and its residents not be denied their allocation of property taxes for the 1991-92 fiscal year due to the

exceptional circumstances in which the Los Angeles County Board of Supervisors did not file a final resolution with the executive officer of the local agency formation commission, it is necessary that this act take effect immediately.

The Local Agency Formation Commission for the County of Riverside approved the incorporation of the City of Murrieta and the detachment of that territory from certain county service areas. Although the commission intended that the new city would assume the duties and financing methods of the county service areas, the commission failed to provide for an adequate transition of that authority. The voters of this community overwhelmingly approved the proposed incorporation. Without corrective legislation, the territory would be detached or automatically excluded from the county service areas and the new city would not be able to continue to finance the existing services. Without corrective legislation, the residents and landowners of this territory would lose public services which are vital to the public peace, health, and safety. Therefore, it is necessary that this act take effect immediately.

In order that the City of Calabasas and its residents not be denied their allocation of property taxes for the 1991–92 fiscal year, it is necessary that this act take immediate effect.

CHAPTER 38

An act to amend Section 1463.29 of the Penal Code, relating to crimes.

[Approved by Governor May 29, 1991. Filed with Secretary of State May 29, 1991]

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

SECTION 1. Section 1463.29 of the Penal Code is amended to read:

1463.29. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be credited, once a month, to the public transportation system or entity having jurisdiction over facilities or vehicles specified in Section 640.5, fines levied for violations of subdivision (a) of Section 640.5, and for the purposes specified in subdivision (c) of Section 640.5.

CHAPTER 39

An act relating to education, and making an appropriation therefor, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor May 29, 1991. Filed with Secretary of State May 29, 1991.]

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

SECTION 1. The sum of three million five hundred thirty-nine thousand four hundred eighty-five dollars ($3,539,485) is hereby appropriated from the General Fund in augmentation of Item 6110-001-001 of the Budget Act of 1990 for the purpose of reimbursing the State Department of Education for costs incurred as a result of the payment of a federal audit exception (Audit Control No. 09-50284), pursuant to a settlement agreement between the United States Department of Education and the State Department of Finance, relating to the unemployment insurance rates assessed against federally supported salaries in school districts.

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 40

An act to amend Section 50055 of the Government Code, relating to local agencies.

[Approved by Governor May 29, 1991. Filed with Secretary of State May 29, 1991]

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

SECTION 1. Section 50055 of the Government Code is amended to read:

50055. Any other provision of this article notwithstanding, any individual items of less than ten dollars ($10), or any amount if the depositor's name is unknown, which remain unclaimed in the treasury or in the official custody of an officer of a local agency for the period of one year or upon an order of the court may be transferred to the general fund by the legislative body without the necessity of publication of a notice in a newspaper.

CHAPTER 41

An act to amend Sections 18427 and 18427.4 of the Financial Code, relating to industrial loan companies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 29, 1991. Filed with Secretary of State May 29, 1991]

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

SECTION 1. Section 18427 of the Financial Code is amended to read:

18427. (a) Except as provided for under subdivision (c), it is unlawful for any company to offer or sell any security (other than an investment certificate when authorized by the commissioner as provided in this division) in an issuer transaction, whether or not by or through underwriters, unless the sale has been qualified under Section 25111, 25112, 25113, or 25121 of the Corporations Code (and no order under Section 25140 or subdivision (a) of Section 25143 of the Corporations Code or Section 18427.2 of this code is in effect with respect to that qualification).

(b) Subject to subdivision (c) and Section 18427.4, the security and transaction exemptions under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code, or the security and transaction exemptions adopted by rule of the commissioner under that chapter, do not apply to the offer or sale of any security, or to any security, of a company in an issuer transaction.

(c) The requirement of subdivision (a) that a company qualify the sale of a security prior to its offer or sale does not apply to the offer or sale of a nonrecourse participation interest, in whole or in part, in a note or obligation, or notes or obligations, that are a receivable of the company issuing the participation interest to (1) a company authorized by the commissioner to engage in the industrial loan business under this division, (2) a person who is described in or meets the requirements of subdivision (i) of Section 25102 of the Corporations Code or any rule promulgated thereunder, or (3) a purchaser in a transaction involving the offer and sale of the company's nonrecourse participation interests, which transaction is exempt from qualification by virtue of meeting all of the requirements of subdivision (f) of Section 25102 of the Corporations Code and the rules promulgated thereunder, provided further that a purchaser cannot satisfy the requirement of a preexisting personal or business relationship with the offeror under subdivision (f) of Section 25102 of the Corporations Code and the rules promulgated thereunder by virtue of the fact of being a holder of an investment certificate or thrift obligation of a company, irrespective in the case of (1), (2), or (3), of whether servicing rights under the note or

obligation, or notes or obligations, are retained or released by that company.

SEC. 2. Section 18427.4 of the Financial Code is amended to read:

18427.4. There shall be exempted from subdivision (a) of Section 18427 and Section 25110 of the Corporations Code any transaction which the commissioner by rule or order, adopted or issued under the Industrial Loan Law, exempts as not being comprehended within the purposes of this article and the qualification of which the commissioner finds is not necessary or appropriate in the public interest or for the protection of investors, investment certificate holders, and the industrial loan company industry as a whole.

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:

Statutes that became effective on January 1, 1991, have created an ambiguity regarding the proper regulatory process for the offer or sale of participations in notes and other obligations by industrial loan companies. This act is necessary to clarify that the offer or sale of participations in notes and other obligations by an industrial loan company, under certain circumstances, is a transaction for which a permit under the Corporate Securities Law of 1968 is not required, and thereby allow for the continuity of these transactions, avoid the disruption of commerce, and assure the equal application of the law to all California financial institutions.

CHAPTER 42

An act relating to school funding, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor May 29, 1991. Filed with Secretary of State May 29, 1991.]

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

SECTION 1. Notwithstanding Section 2.00 of Chapter 467 of the Statutes of 1990, of the unencumbered balance of the appropriation made under Schedule (a) of Item 6110-101-001 of that section, the sum of eight hundred thirty-five million dollars ($835,000,000) shall revert, as of the effective date of this act, to the unappropriated surplus of the General Fund.

SEC. 2. (a) The sum of eight hundred thirty-five million dollars ($835,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for apportionment to school districts as an emergency loan. That apportionment shall be distributed to school districts pursuant to Section 42238 of the Education Code in the same manner that funds are apportioned

pursuant to Schedule (a) of Item 6110-101-001 of Section 2.00 of the Budget Act of 1990, as set forth in Chapter 467 of the Statutes of 1990.

(b) No interest payment shall be required with regard to the loan authorized under subdivision (a). The repayment of that loan shall be governed by statutory provision that expressly addresses that loan.

(c) The moneys appropriated for loan purposes under subdivision (a) shall not be deemed, for any fiscal year, to be either "General Fund revenues appropriated for school districts" or any part of "total allocations to school districts" for purposes of Section 8 of Article XVI of the California Constitution.

SEC. 3. (a) (1) The sum of eight hundred thirty-five million dollars ($835,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for apportionment to school districts for the 1991–92 fiscal year pursuant to Section 42238 of the Education Code.

(2) The sum appropriated pursuant to paragraph (1) shall be reduced by the amount of eight hundred thirty-five million dollars ($835,000,000) in discharge of the emergency loan in that amount made to school districts from the General Fund pursuant to Section 2 of this act.

(b) The appropriation made by paragraph (1) of subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts" for the 1991–92 fiscal year and "total allocations to school districts" for that fiscal year, for purposes of Section 8 of Article XVI of the California Constitution.

(c) This section shall become operative July 1, 1991.

SEC. 4. Notwithstanding Section 41203.1 of the Education Code, the calculations of relative funding entitlements for the 1990–91 and 1991–92 fiscal years provided for under that section shall be performed as if Sections 1 to 3, inclusive, of this act had not been enacted.

SEC. 5. 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 43

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 1990, relating to contingencies or emergencies, to take effect immediately, usual current expenses.

[Approved by Governor May 30, 1991. Filed with Secretary of State May 30, 1991.]

I am reducing the General Fund appropriation contained in Assembly Bill No. 208 by the following amounts:

$12,656,000 for additional year-round-school incentive payments in the current year. According to recent calculations, this amount will be significantly lower. The actual

funding needs will be addressed through the budget bill.

$3,539,000 for a federal audit exception related to unemployment insurance rates. Funding for this augmentation has been included in AB 98.

$300,000 for matters of reapportionment which the Department of Finance indicates is no longer necessary.

With these reductions, I approve Assembly Bill No. 208.

PETE WILSON, Governor

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

SECTION 1. (a) The sum of two hundred fifty-four million three hundred seventy-two thousand dollars ($254,372,000) is hereby appropriated for expenditure in the 1990–91 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 1990, in accordance with the following schedule:

(1) Two hundred twelve million six hundred thirty thousand dollars ($212,630,000) for purposes not related to Proposition 98 and thirteen million three hundred seventy thousand dollars ($13,370,000) for Proposition 98 purposes from the General Fund to the Reserve for Contingencies or Emergencies in Item 9840-001-001.

Seventeen million ninety thousand dollars ($17,090,000) from unallocated special funds to the Reserve for Contingencies or Emergencies in Item 9840-001-494.

(3) Eleven million two hundred eighty-two thousand dollars ($11,282,000) 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. 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 44

An act to amend Section 8553 of the Food and Agricultural Code, relating to pest control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 1, 1991. Filed with Secretary of State June 3, 1991.]

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

SECTION 1. Section 8553 of the Food and Agricultural Code is amended to read:

8553. (a) A district may pay limited compensation to the owner of any citrus tree infected with citrus tristeza virus which is removed by the district or by the owner within 15 days after written notice of the infection to the owner by the district. The limited compensation shall not exceed the following payment schedule, with the age of the tree being conclusively established as of the time written notice of the infection is first given to the owner.

(b) The schedule of payments is as follows:

Age of trees	Maximum payment
1 year	$ 5.00 per tree
2 years	7.50 per tree
3 years	10.00 per tree
4 years	14.00 per tree
5 years	17.50 per tree
6 years	20.75 per tree
7 years or older	25.00 per tree

(c) For the purposes of this section, the holder of the record title of the real property on which the trees are located shall be considered to be the owner of the citrus trees to whom written notice of infection is given.

(d) The written notice referred to in subdivision (a) shall be a written or printed document labeled "Notice of Infection," addressed to the owner and informing the owner of the existence of the infected trees, their location, and that they should be removed forthwith.

(e) For the purposes of determining the age of infected citrus trees under this section, trees shall be considered one year old as of the January 1st succeeding the calendar year in which they are planted, and shall be deemed one year older on the January 1st of each succeeding year.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to take effect and apply, as soon as possible,

with regard to the eradication of the current infestation of citrus tristeza virus, it is necessary that this act take effect immediately.

CHAPTER 45

An act to add Section 19957.5 to the Education Code, relating to library construction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 1, 1991. Filed with Secretary of State June 3, 1991.]

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

SECTION 1. Section 19957.5 is added to the Education Code, to read:

19957.5. (a) An applicant for a grant for the acquisition, construction, remodeling, or rehabilitation of public library facilities under this chapter, as opposed to an application for a grant to acquire land pursuant to subdivision (b) of Section 19957, shall be eligible to apply for that grant if that applicant has an order issued by a court for possession of property in an eminent domain action pursuant to Section 1255.410 of the Code of Civil Procedure.

(b) The terms "purchase of land" or "acquisition of land," as used in this chapter, or in any rule, regulation, or policy adopted by the state librarian pursuant to Section 19960, shall include, but shall not be limited to, the acquisition of land by eminent domain and the eligible cost of acquisition of land by eminent domain shall be the fair market value of the property as defined by Sections 1263.310 to 1263.330, inclusive, of the Code of Civil Procedure. However, the eligible cost of the land for a library project's site acquired by eminent domain, if title to the land will not be transferred until after the grant application is submitted, shall be limited to the appraised value of the land.

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 potential grant applicants to establish eligibility prior to the award of grants in July 1991, it is necessary for this act to take effect immediately.

CHAPTER 46

An act to add Section 1191.1 to the Military and Veterans Code, relating to veterans' memorial districts.

[Approved by Governor June 1, 1991. Filed with Secretary of State June 3, 1991.]

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

SECTION 1. Section 1191.1 is added to the Military and Veterans Code, to read:

1191.1. (a) The Lindsay-Strathmore Memorial District may enter into a joint powers agreement with the Strathmore Public Utility District to provide for the management, maintenance, and operation of the memorial district property and improvements located at Strathmore, California, and for the use by the public utility district of the real property and improvements owned by the memorial district for offices, maintenance, and storage facilities.

(b) This section applies only to the Lindsay-Strathmore Memorial District in Tulare County. This section is not intended to amend any of the provisions of Section 1266, and use of the Lindsay-Strathmore Memorial District property by the Strathmore Public Utility District under this section is not an abandonment of the facility by the Lindsay-Strathmore Memorial District or the veterans' organization.

SEC. 2. The Legislature finds and declares that certain buildings and facilities owned by the Lindsay-Strathmore Memorial District are in disrepair and are threatened with abandonment because of insufficient funds for their maintenance. The Legislature further finds that joint use of some of the buildings and facilities by the memorial district and the Strathmore Public Utility District is feasible and would provide for the maintenance of the buildings and facilities for the benefit of both districts and the community. The Legislature further finds and declares that the facts and circumstances in the Lindsay-Strathmore Memorial District are unique, a local special statute is necessary, and a general act cannot be made applicable.

CHAPTER 47

An act to add Section 7149.7 to the Fish and Game Code, relating to fishing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1991. Filed with Secretary of State June 6, 1991.]

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

SECTION 1. Section 7149.7 is added to the Fish and Game Code, to read:

7149.7. Notwithstanding Section 7145, the director may designate not more than two days, which may or may not be consecutive, in each year as free sportfishing days during which residents and nonresidents may, without having a sportfishing license and without the payment of any fee, exercise the privileges of a holder of a sportfishing license, subject to all of the limitations, restrictions, conditions, laws, rules, and regulations applicable to the holder of a sportfishing license.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow free fishing days to be established in time for the primary fishing seasons of 1991, it is necessary that this act take effect immediately.

CHAPTER 48

An act to amend Section 67111 of the Food and Agricultural Code, relating to the California Avocado Commission.

[Approved by Governor June 5, 1991. Filed with Secretary of State June 6, 1991.]

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

SECTION 1. Section 67111 of the Food and Agricultural Code is amended to read:

67111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five thousand dollars ($5,000), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully to render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping of avocados or in the wholesale

or retail trade of avocados, to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom he or she has received avocados and the quantity and inventory, by variety, of the avocados.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

CHAPTER 49

An act to add Section 1167.6 to the Code of Civil Procedure, and to add Section 399.5 to, and to add Chapter 3 (commencing with Section 800) to Division 4 of, the Military and Veterans Code, relating to military reserve, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 10, 1991 Filed with Secretary of State June 10, 1991.]

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

SECTION 1. This act shall be known and may be cited as The Military Reservist Relief Act of 1991.

SEC. 2. Section 1167.6 is added to the Code of Civil Procedure, to read:

1167.6. Any summons issued in a complaint for unlawful detainer shall state in English and Spanish that if one or more of the defendants is the spouse, dependant child or children, or otherwise a dependant of a reservist, as defined in Section 803 of the Military and Veterans Code, those defendants may be entitled to a stay of eviction procedures as provided in Section 399.5 of the Military and Veterans Code.

SEC. 3. Section 399.5 is added to the Military and Veterans Code, to read:

399.5. (a) No eviction or distress shall be made during the period of military service specified in Section 801 in respect to any premises for which the agreed rent does not exceed one thousand two hundred dollars ($1,200) per month, which is occupied primarily for dwelling purposes by the spouse, children, or other dependents of a reservist, as defined in Section 802, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.

(b) On any application or in any action under subdivision (a), the court may, on its own motion, and shall, on application, stay the proceedings for the period specified in Section 801 or rather than granting a complete stay, the court may require the tenant to make regular partial payments during the reservist's period of military service, or the court may make any other order that it may find to

be just, unless the court finds that the ability of the tenant to pay the agreed rent is not materially affected by that military service.

(c) Any person who knowingly takes part in any eviction or distress other than as provided in subdivision (a), or who attempts to do so, is guilty of a misdemeanor.

SEC. 4. Chapter 3 (commencing with Section 800) is added to Division 4 of the Military and Veterans Code, to read:

CHAPTER 3. UNITED STATES MILITARY RESERVE: IRAQ-KUWAIT CRISIS

800. (a) The Legislature finds and declares that, due to the Iraq-Kuwait crisis, more than 11,500 members of the United States Military Reserve who are residents of California have been called to active duty to serve their country. This sudden and unexpected call to arms has caused unavoidable financial and emotional hardship for those reservists, their families, and their dependents. Many of these reservists have suffered directly from substantial personal income reductions. It is the intent of the Legislature, in enacting this chapter, to provide for emergency economic relief to the reservists of this state who have been called to active duty during the Iraq-Kuwait crisis.

801. In addition to any other benefits provided by law and to the extent permitted by federal law, any member of the United States Military Reserve of this state who is called into active duty as a result of the Iraq-Kuwait crisis may delay payments on any of the following obligations while serving on active duty, if the reservist or the reservist's dependent or designee delivers to the lender or company servicing the obligation a letter or other comparable evidence from the reservist's employer showing that the employer's compensation policy does not provide continuing income to the reservist, including the reservist's military pay, of more than 90 percent of the reservist's monthly salary and wage income earned before the call to active duty, until 30 days after the reservist is released from active duty, not to exceed 180 days:

(a) (1) Principal and interest payments on a mortgage, as defined in Section 2920 of the Civil Code.

(2) Credit card as defined in Section 1747.02 of the Civil Code.

(3) Retail installment contract as defined in Section 1802.6 of the Civil Code.

(4) Retail installment account, installment account, or revolving account as defined in Section 1802.7 of the Civil Code.

(5) Any loan subject to the Automobile Sales Finance Act (Chapter 2b (commencing with Section 2981) of Part 4 of Division 3 of Title 14 of the Civil Code).

(6) Any payment of property tax or any special assessment of in-lieu property tax imposed on real property which is assessed on residential property owned by the reservist and used as that reservist's primary place of residence on the date the reservist was

ordered to active duty.

(b) Upon request of the reservist or the reservist's dependent or designee and within five working days of that request, the employer of a reservist shall furnish the letter or other comparable evidence showing that the employer's compensation policy does not provide continuing income to the reservist, including the reservist's military pay, of more than 90 percent of the reservist's monthly salary and wage income earned before the call to active duty.

802. (a) For purposes of this chapter, "mortgage" shall be limited to a mortgage for residential property owned by the reservist and used as that reservist's primary place of residence on the date the reservist was ordered to active duty. All mortgage payments delayed pursuant to this chapter shall be repaid in 84 equal installments, beginning with the first regular mortgage payment that becomes due on or after 60 days after the reservist's release from active duty.

(b) Notwithstanding subdivision (a), any mortgage payments delayed pursuant to Section 801 are due and payable upon the earlier of the following:

(1) The sale of the property or other event specified in the mortgage loan documents permitting the lender to accelerate the loan, other than a delay of payments authorized by Section 801.

(2) Further encumbrance of the property with a junior mortgage.

(3) The maturity of the mortgage loan.

(c) Nothing in this section relieves a reservist with a mortgage subject to an impound account for the payment of property taxes, special assessments, mortgage insurance, and hazard insurance from making monthly payments of an amount which is at least sufficient to pay these amounts, unless the borrower and lender agree to a lesser amount.

(d) Nothing in this chapter shall preclude a reservist from making payments toward the mortgage payments delayed prior to the occurrence of any of the events in subdivision (a) or (b).

803. For purposes of this chapter, "reservist" means a member of the United States Military Reserve who has been called to active duty as a result of the Iraq-Kuwait crisis, pursuant to Presidential Order No. 12744.

804. During the period specified in Section 801, the reservist may delay the payment of principal and interest on the specified obligations. No penalties shall be imposed on the nonpayment of principal or interest during this period. No interest shall be charged or accumulated on the principal or interest on which the payment was delayed. No foreclosure or repossession of property on which payment has been delayed shall take place during the period specified in Section 801.

805. A stay, postponement, or suspension under this chapter of the payment of any tax, fine, penalty, insurance premium, or other civil obligation or liability of a person in military service shall not provide the basis for affecting credit ratings, denial or revocation of credit, or a change by the creditor in the terms of an existing credit

arrangement.

806. During the period specified in Section 801, the reservist may delay the payment of premiums for motor vehicle insurance without lapse of coverage. The premiums delayed pursuant to this section shall be repaid in 24 equal monthly installments beginning with the first premium payment due on or after 30 days after the reservist is released from active duty.

807. (a) Any insurer, which was providing health or medical insurance to a reservist at the time the reservist was ordered to active duty, shall reinstate the health or medical insurance without waiting periods or exclusion of coverage for preexisting conditions.

(b) The holder of a loan or retail installment sales contract with respect to which the debtor has purchased prepaid credit disability insurance shall give notice to the debtor not less than 30 days before the expiration date of the insurance that the debtor will not be protected during the period between that expiration date and the delayed maturity date of the loan or contract unless the insurance is extended. The debtor may, at his or her option, direct the holder to add the amount of the additional premium to the unpaid balance of the loan or contract.

(c) The holder of an open-ended loan or retail installment account with respect to which the debtor has purchased credit disability insurance with premiums payable monthly together with the installment payments on the loan or the account shall give notice to the debtor that the debtor will not be protected by the insurance during the period specified in Section 801 unless the debtor elects to continue payment of premiums during that period. The debtor may, at his or her option, direct the holder to add the amount of those premiums to the unpaid balance of the account.

808. During the period specified in Section 801, the reservist may delay lease payments for leased vehicles without breach of the lease or the foreclosure or repossession of the vehicle. Payments delayed pursuant to this section shall be repaid in equal installments payable over the remaining life of the lease, beginning with the first regular lease payment that becomes due on or after 60 days after the reservist's release from active duty. This chapter applies only to any obligation specified in Section 801 which was incurred prior to the date that a member of the United States Military Reserve was called into active duty.

809. Every loan subject to the Automobile Sales Finance Act, Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, delayed pursuant to this chapter shall be repaid in equal installments payable over the remaining life of the loan, beginning with the first regular loan payment that becomes due on or after 60 days after the reservist is released from active duty.

810. This chapter shall not apply to any active duty voluntarily served after the close of the Iraq-Kuwait crisis.

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 that economic relief may be provided to members of the United States Military Reserve of this state who were called into active duty as a result of the Iraq-Kuwait crisis, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 50

An act to amend Sections 810 and 1007 of, to add Sections 328, 329, 330, and 331 to, and to add Article 11 (commencing with Section 1101) to, the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), relating to the Fox Canyon Groundwater Management Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 10, 1991. Filed with Secretary of State June 10, 1991.]

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

SECTION 1. Section 328 is added to the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), to read:

Sec. 328. "Excess extractions" means those extractions in excess of an operator's extraction allocation or adjusted extraction allocation.

SEC. 2. Section 329 is added to the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), to read:

Sec. 329. "Extraction allocation" means the amount of groundwater that may be extracted from an extraction facility during a calendar year before a surcharge is imposed.

SEC. 3. Section 330 is added to the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), to read:

Sec. 330. "Extraction surcharge" means a surcharge assessed annually each time an operator exceeds his or her extraction allocation.

SEC. 4. Section 331 is added to the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), to read:

Sec. 331. "Safe yield" means the condition of a groundwater basin when the total average annual groundwater extractions are equal to, or less than, the total average annual groundwater recharge, either naturally or artificially.

SEC. 5. Section 810 of the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982) is amended to read:

Sec. 810. (a) The agency may, by ordinance, require the operator of each extraction facility to file semiannually, or more frequently, with the agency or a member agency, a groundwater extraction statement that contains, but is not limited to, the following information:

(1) Total extraction in acre-feet of water from the extraction facility for the preceding groundwater extraction statement period.

(2) The static groundwater level for the extraction facility.

(3) A description of the location of the extraction facility.

(4) The crop types or other uses and the acreage served by the extraction facility.

(5) The method of measuring or computing groundwater extraction.

(b) Each groundwater extraction statement shall be verified by a written declaration under penalty of perjury that the information contained in the statement is true and correct. The operator of an extraction facility which has been permanently abandoned after January 1, 1983, shall give written notice of the abandonment to the agency.

SEC. 6. Section 1007 of the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982) is amended to read:

Sec. 1007. The groundwater extraction charge shall not exceed three dollars ($3) per acre-foot pumped per year.

SEC. 7. Article 11 (commencing with Section 1101) is added to the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), to read:

Article 11. Extraction Allocations and Extractions Surcharges

Sec. 1101. The agency may, by ordinance, establish an operator's extraction allocation for each groundwater extraction facility located within the agency. The agency may, by ordinance, impose upon the operator of any groundwater extraction facility located within the agency, extraction surcharges for extractions in excess of his or her extraction allocation and late penalties for nonpayment of extraction surcharges.

Sec. 1102. (a) The Legislature hereby finds and declares that extraction allocations and extraction surcharges authorized pursuant

to Section 1101 are necessary to eliminate overdraft caused by excess extractions from the aquifer systems within the agency and to bring the groundwater basins underlying the territory to safe yield by the year 2010.

(b) The extraction surcharges are intended to discourage the use of groundwater beyond the extraction allocation. They are not intended to generate tax revenues or proceeds from regulatory licenses, user charges, or user fees. Consequently, they are not special taxes for purposes of Section 4 of Article XIII A of the California Constitution or proceeds of taxes for purposes of Section 8 of Article XIII B of the California Constitution.

Sec. 1103. The maximum amount of the extraction surcharge shall be two hundred dollars ($200) per acre-foot of groundwater extracted in excess of the extraction allocation, except that the agency is authorized to increase the maximum amount of the extraction surcharge to an amount that is necessary to achieve safe yield.

Sec. 1104. (a) If an operator of a groundwater extraction facility fails to pay the extraction surcharge when due, the agency shall charge and collect a late penalty at the rate of 1½ percent each month, or portion thereof, on the delinquent amount of the extraction surcharge.

(b) The agency may bring a cause of action, in any court having jurisdiction, against an operator of a groundwater extraction facility for the collection of any delinquent extraction surcharge, and Article 5 (commencing with Section 75630) of Chapter 3 of Part 9 of Division 21 of the Water Code applies to those actions.

Sec. 1105. (a) In addition to any other authority, the agency may order that an extraction surcharge or late penalty be a personal obligation of the operator or an assessment against the property, on which the extraction facility is located. The assessment constitutes a lien upon the property, and the lien attaches upon recordation in the office of the county recorder.

(b) The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to an assessment, except that, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, the lien which would otherwise be imposed by this section shall not attach to the real property and an assessment relating to the property shall be transferred to the unsecured roll for collection.

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 regulate and monitor groundwater extraction within the Fox Canyon Groundwater Management Agency at the earliest possible time, thereby, it is necessary that this act take effect immediately.

CHAPTER 51

An act to amend Sections 23115 and 23156 of the Government Code, relating to counties.

[Approved by Governor June 10, 1991. Filed with Secretary of State June 10, 1991.]

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

SECTION 1. Section 23115 of the Government Code is amended to read:

23115. The boundaries of Kern County are as follows:

Beginning at the northwest corner, being the common corner of San Luis Obispo, Kings, and Kern; thence east, on the sixth standard south of Mount Diablo base, to the northwest corner of Sec. 1, T. 25 S., R. 40 E., M. D. B. & M., said point being the northeast corner of Kern and the northwest corner of San Bernardino; thence south on the westerly line of San Bernardino to the southeast corner of Sec. 32, T. 9 N., R. 7 W., S. B. B. & M., forming the southeast corner of Kern; thence west along the township line between T. 8 and 9 N. of San Bernardino base to a point on the north line of Sec. 4, T. 8 N., R. 19 W., S. B. B. & M., said point being the northwest corner of Los Angeles; thence southeasterly along the westerly line of Los Angeles to the southerly line of Sec. 10, T. 8 N., R. 19 W., S. B. B. & M., said point being the corner common to Ventura, Los Angeles and Kern; thence westerly and northwesterly along the northern boundary of Ventura to the corner common to Santa Barbara, Ventura and Kern; thence along the northern boundary of Santa Barbara to the corner common to San Luis Obispo, Santa Barbara and Kern; thence northerly along the eastern boundary of San Luis Obispo to the place of beginning.

SEC. 2. Section 23156 of the Government Code is amended to read:

23156. The boundaries of Ventura County are as follows:

Commencing on the coast of the Pacific Ocean, at the mouth of the Rincon Creek; thence following up the center of said creek to its source; thence due north to the corner common to Kern, Santa Barbara, and Ventura located on the township line between T. 9 and 10 N., R. 24 W., S. B. B. & M., and running thence east with said line between T. 9 and 10 N., to the northeast corner of T. 9 N., R. 24 W., S. B. B. & M.; thence south with the range line to the quarter section

corner in the west line of Sec. 7, T. 9 N., R. 23 W., S. B. B. & M.; thence east with the center line of Secs. 7, 8, 9, 10, 11, and 12 of said T. 9 N., R. 23 W., to the line between R. 22 and 23 W., of said township; thence south with the range line to the southwest corner of Sec. 18, T. 9 N., R. 22 W.; thence east to the corner of Secs. 16, 17, 20, and 21 of said township; thence south to the southwest corner of Sec. 33, of said township; thence east on the line between T. 8 and 9 N., to the west line of Sec. 2, T. 8 N., R. 20 W., S. B. B. & M.; thence south along said west line of said Sec. 2 and Sec. 11 of said township to the southwest corner of said Sec 11; thence east along the south line of said Sec. 11 and Sec. 12 of said township to and along the south line of Secs. 7, 8, 9, and 10 of T. 8 N., R. 19 W., S. B. B. & M. to the western line of Los Angeles; thence southerly along said western line of Los Angeles to the Pacific Ocean and three miles therein; thence in a northwesterly direction to a point due south of and three miles distant from the center of the mouth of Rincon Creek; thence north to the point of beginning, and including the islands of Anacapa and San Nicholas.

CHAPTER 52

An act to amend Sections 19110 and 19143 of the Education Code, and to amend Section 24001 of the Government Code, relating to county and district officers.

[Approved by Governor June 10, 1991. Filed with Secretary of State June 10, 1991.]

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

SECTION 1. Section 19110 of the Education Code is amended to read:

19110. The board of supervisors of any county may contract with the board of supervisors of any other county or two or more other counties to provide for the services of a single qualified librarian to serve simultaneously as the county librarian of each county.

SEC. 2. Section 19143 of the Education Code is amended to read:

19143. At the time of his or her appointment, the county librarian need not be a citizen of the State of California.

SEC. 3. Section 24001 of the Government Code is amended to read:

24001. Except as otherwise provided in Sections 27550.1 and 27641.1 of this code or in this section, or in Section 21123 or 34711 of the Water Code, or in any landowner voting district, as defined in subdivision (m) of Section 23503 of the Elections Code, a person is not eligible to a county or district office, unless he or she is a registered voter of the county or district in which the duties of the office are to be exercised at the time that nomination papers are issued to the person or at the time of the person's appointment.

The board of supervisors or any other legally constituted appointing authority in a county or district may, if it finds that the best interests of the county or district will be served, waive the requirements of this section for an appointed county or district office.

CHAPTER 53

An act to amend Section 14.2 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945), relating to the Riverside County Flood Control and Water Conservation District Act.

[Approved by Governor June 10, 1991. Filed with Secretary of State June 10, 1991.]

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

SECTION 1. Section 14.2 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is amended to read:

Sec. 14.2. The board of supervisors of the district may issue negotiable promissory notes pursuant to this section for any district purpose except those purposes specified in Section 14.3. The maturity of the promissory note shall not be later than 10 years from the date thereof. The total aggregate amount of the promissory notes outstanding at any one time shall not exceed the lesser of either twenty-one million dollars ($21,000,000) or 2 percent of the assessed valuation of the taxable property in the district or zone or zones thereof as shown on the last assessment roll.

CHAPTER 54

An act to amend Section 44670.5 of the Education Code, relating to certificated employees.

[Approved by Governor June 10, 1991. Filed with Secretary of State June 10, 1991]

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

SECTION 1. Section 44670.5 of the Education Code is amended to read:

44670.5. Each school that is receiving funds for the purposes of this article or that chooses to utilize the provisions of this article shall have a single plan to strengthen subject matter and instruction, consistent with rules and regulations adopted by the school district

governing board. If a school develops or has developed a school plan pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 of the School-Based Program Coordination Act, the planning requirements of this article shall be met by including within that plan the requirements specified in Section 44670.9 and by meeting the requirements of Sections 44670.3 and 44670.5.

If a school develops or has developed a school plan pursuant to the School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act, Article 7 (commencing with Section 54720) of Chapter 9 of Part 29, or any other state or federal categorical education program, the provision of that school plan shall be included within the plan to strengthen subject matter and instruction, developed pursuant to this article and, in so doing, the school shall be deemed to have complied with the requirements of those programs. The plans shall include professional development of the personnel employed at the school necessary to meet the requirements of the plan. Professional development programs shall:

(a) Provide opportunities for all school personnel to participate in ongoing development activities pursuant to the objectives specified in Section 44670.3.

(b) Be designed and implemented under the direction of classroom teachers and other participating school personnel, including the school principal and one or more mentor teachers, and, as appropriate, other nonadministrative certificated personnel, including, but not limited to, counselors, librarians, and nurses, and, as appropriate, in consultation with resource agencies or consortia established pursuant to Article 2 (commencing with Section 44680), institutions of higher education, and subject matter projects established pursuant to this code. Classroom teachers selected by teachers shall comprise the majority of any group designated to design professional development activities for instructional personnel.

(c) Allow for diversity in professional development activities, including, but not limited to, study of theory and rationale, observation of demonstration lessons, practice opportunities for peer coaching, consultation, and feedback in the classroom setting, and systematic observation during visits to other classrooms or schools.

(d) Be conducted during time that is set aside for that purpose throughout the year, including, but not limited to, time on a continuing basis when participating school personnel are released from their regular duties.

(e) Be evaluated and modified on a continuing basis by participating school personnel in consultation and, as appropriate, with regional resource consortia personnel and subject matter project personnel, based upon benefits to staff and pupils.

(f) Include the school principal and other administrative personnel as active continuing participants in one or more professional development activities implemented pursuant to a school development plan.

(g) Make available followup activities to assist participating staff in using newly acquired skills on the job.

(h) Promote the professional development of instructional paraprofessionals in the schools, including activities that will encourage instructional paraprofessionals to pursue the education and training necessary to become classroom teachers.

CHAPTER 55

An act to amend Section 1632 of the Elections Code, relating to elections.

[Approved by Governor June 10, 1991. Filed with Secretary of State June 10, 1991.]

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

SECTION 1. Section 1632 of the Elections Code is amended to read:

1632. (a) The elections official may, not less than 30 days prior to any election, find that a different arrangement of election officers than is prescribed in this chapter will be more suitable and in such case may provide that the precinct board shall consist of one inspector and three clerks; or one inspector, one assistant inspector, and two clerks; or one inspector and four clerks. If the elections official provides that the precinct board shall consist of one inspector, one assistant inspector, and two clerks, the precinct board shall be implemented by four clerks, who shall commence serving upon the close of the polls and shall, together with the inspector, assistant inspector, and two clerks, count the votes. The clerks shall be appointed, qualified and sworn as are other members of the precinct board.

(b) The elections official may, in order to accommodate the needs of the precinct election officers, allow an election officer to serve less than a full shift at the polling place by dividing time with another election officer or officers, at the same polling place, if the requirements of the precinct will be met. More than one election officer serving portions of the same shift shall be counted as one election officer for purposes of subdivision (a) and shall meet all other applicable qualifications set forth in this chapter.

CHAPTER 56

An act to amend Section 8880.32 of the Government Code, relating to the State Lottery, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 14, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 8880.32 of the Government Code is amended to read:

8880.32. The Commission shall promulgate rules and regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided:

(a) For convenience of the public, Lottery Game Retailers may be authorized by the Commission to pay winners of up to six hundred dollars ($600) after performing validation procedures on their premises appropriate to the Lottery Game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the Lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the Lottery Game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular Lottery Game. The Lottery may pay a prize even though the actual winning ticket is not received by the Lottery if the Lottery validates the claim for the prize based upon substantial proof. "Substantial proof" means any evidence that would permit the Lottery to use established validation procedures, as specified in Lottery regulations, to validate the claim.

The Commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. Any such declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any Lottery Game shall be paid more than once.

(d) The Commission may specify that winners of less than twenty-five dollars ($25) claim the prizes from either the same Lottery Game Retailer from whom it was purchased or from the Lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the Lottery Game or play in which the prize was won. The Commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the Lottery Commission or for any on-line game prize

within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each Lottery Game, the Commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a Lottery Game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the Lottery Commission.

(g) The right of any person to a prize shall not be assignable, except that payment of any prize may be paid to the estate of a deceased prize winner or to a person designated pursuant to an appropriate judicial order. In the event that there is no probate, the prize shall be paid to the survivors of the claimant in the following order:

(1) The claimant's spouse.

(2) The claimant's children.

(3) The claimant's parents.

(4) The claimant's brothers and sisters.

Payment shall be to the members of the group entitled, who are living on the date of death of the claimant, share and share alike. No payment shall be made to persons in any group if at the date of death there are living persons in any group preceding it. The Director, the Commission, and the state shall be discharged of all further liability upon the payment of a prize pursuant to this subdivision.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the Commission, any officer or employee of the Commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential Lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(i) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984.

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

In order to safeguard additional revenues for the support of public education as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 57

An act to amend Sections 415.46, 715.010, 715.020, 1169, 1174.25, and 1174.3 of, and to repeal Section 585.1 of, the Code of Civil Procedure, relating to unlawful detainer, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 14, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 415.46 of the Code of Civil Procedure is amended to read:

415.46. (a) In addition to the service of a summons and complaint in an action for unlawful detainer upon a tenant and subtenant, if any, as prescribed by this article, a prejudgment claim of right to possession may also be served on any person who appears to be or who may claim to have occupied the premises at the time of the filing of the action. Service upon occupants shall be made pursuant to subdivision (c) by serving a copy of a prejudgment claim of right to possession, as specified in subdivision (f), attached to a copy of the summons and complaint at the same time service is made upon the tenant and subtenant, if any.

(b) Service of the prejudgment claim of right to possession in this manner shall be effected by a marshal, sheriff, or registered process server.

(c) When serving the summons and complaint upon a tenant and subtenant, if any, the marshal, sheriff, or registered process server shall make a reasonably diligent effort to ascertain whether there are other adult occupants of the premises who are not named in the summons and complaint by inquiring of the person or persons who are being personally served, or any person of suitable age and discretion who appears to reside upon the premises, whether there are other occupants of the premises.

If the identity of such an occupant is disclosed to the officer or process server and the occupant is present at the premises, the officer or process server shall serve that occupant with a copy of the prejudgment claim of right to possession attached to a copy of the summons and complaint. If personal service cannot be made upon that occupant at that time, service may be effected by (1) leaving a copy of a prejudgment claim of right to possession attached to a copy of the summons and complaint addressed to that occupant with a person of suitable age and discretion at the premises, (2) affixing the same so that it is not readily removable in a conspicuous place on the premises in a manner most likely to give actual notice to that occupant, and (3) sending the same addressed to that occupant by first-class mail.

In addition to the service on an identified occupant, or if no

occupant is disclosed to the officer or process server, or if substituted service is made upon the tenant and subtenant, if any, the officer or process server shall serve a prejudgment claim of right to possession for all other persons who may claim to occupy the premises at the time of the filing of the action by (1) leaving a copy of a prejudgment claim of right to possession attached to a copy of the summons and complaint at the premises at the same time service is made upon the tenant and subtenant, if any, (2) affixing the same so that it is not readily removable in a conspicuous place on the premises so that it is likely to give actual notice to an occupant, and (3) sending the same addressed to "all occupants in care of the named tenant" to the premises by first-class mail.

The person serving process shall state the date of service on the prejudgment claim of right to possession form. However, the absence of the date of service on the prejudgment claim of right to possession does not invalidate the claim.

(d) Proof of service under this section shall be filed with the court and shall include a statement that service was made pursuant to this section. Service on occupants in accordance with this section shall not alter or affect service upon the tenant or subtenant, if any.

(e) If an owner or his or her agent has directed and obtained service of a prejudgment claim of right to possession in accordance with this section, no occupant of the premises, whether or not such occupant is named in the judgment for possession, may object to the enforcement of that judgment as prescribed in Section 1174.3.

(f) The prejudgment claim of right to possession shall be made on the following form:

NOTICE

EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the summons and complaint.

If you file this form, your claim will be determined in the eviction action against the persons named in the complaint.

If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address): TELEPHONE NO. ATTORNEY FOR (Name):	FOR COURT USE ONLY
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION	
	CASE NUMBER:

DATE OF SERVICE:
(Date that form is served or delivered, posted and mailed by the officer or process server)

Complete this form only if ALL of these statements are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the subject premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is in the accompanying Summons and Complaint.)
3. You still occupy the subject premises.

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit no., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): [ ] , the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is in the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing fee of $_____ or file with the court "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file the form for waiver of court fees within 10 days from the date of service on the form (excluding court holidays), I will not be entitled to make a claim of right to possession. I also understand that I will have 5 days (excluding court holidays) to file a response to the Summons and Complaint after I file this claim of possession.

NOTICE: If you fail to file this claim, you will be evicted without further hearing.

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

11. Rental agreement. I have (check all that apply to you):
    a. ☐ an oral rental agreement with the landlord.
    b. ☐ a written rental agreement with the landlord.
    c. ☐ an oral rental agreement with a person other than the landlord.
    d. ☐ a written rental agreement with a person other than the landlord.
    e. ☐ other (explain):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

. . . . . ▶ _____
(TYPE OR PRINT NAME) (SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim to possession, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

NOTICE TO OCCUPANTS

YOU MUST ACT AT ONCE IF ALL THE FOLLOWING ARE TRUE:

(1) You are not named in the accompanying Summons and Complaint.

(2) You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed.

(3) You still occupy the premises.

You can complete and SUBMIT THIS CLAIM FORM within 10 days from the date of service (on the form) at the court where the unlawful detainer (eviction) complaint was filed.

If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. If you do not file this claim, you will be evicted without a hearing.

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

SEC. 2. Section 585.1 of the Code of Civil Procedure is repealed.

SEC. 3. Section 715.010 of the Code of Civil Procedure is amended to read:

715.010. (a) A judgment for possession of real property may be enforced by a writ of possession of real property issued pursuant to Section 712.010. The application for the writ shall provide a place to indicate that the writ applies to all tenants, subtenants, if any, name claimants, if any, and any other occupants of the premises.

(b) In addition to the information required by Section 712.020, the writ of possession of real property shall contain the following:

(1) A description of the real property, possession of which is to be delivered to the judgment creditor in satisfaction of the judgment.

(2) A statement that if the real property is not vacated within five days from the date of service of a copy of the writ on the occupant or, if the copy of the writ is posted, within five days from the date a copy of the writ is served on the judgment debtor, the levying officer will remove the occupants from the real property and place the judgment creditor in possession.

(3) A statement that any personal property remaining on the real property after the judgment creditor has been placed in possession will be sold or otherwise disposed of in accordance with Section 1174 of the Code of Civil Procedure unless the judgment debtor or other owner pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the real property.

(4) The date the complaint was filed in the action which resulted in the judgment of possession.

(5) The date or dates on which the court will hear objections to enforcement of a judgment of possession that are filed pursuant to Section 1174.3, unless a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46.

(6) The daily rental value of the property as of the date the complaint for unlawful detainer was filed unless a summons, complaint, and prejudgment claim of right of possession were served upon the occupants in accordance with Section 415.46.

(7) If a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46, a statement that the writ applies to all tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises.

(c) At the time the writ of possession is served or posted, the levying officer shall also serve or post a copy of the form for a claim of right to possession, unless a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46.

SEC. 4. Section 715.020 of the Code of Civil Procedure is amended to read:

715.020. To execute the writ of possession of real property:

(a) The levying officer shall serve a copy of the writ of possession on one occupant of the property. Service on the occupant shall be made by leaving the copy of the writ with the occupant personally or, in the occupant's absence, with a person of suitable age and discretion found upon the property when service is attempted who is either an employee or agent of the occupant or a member of the occupant's household.

(b) If unable to serve an occupant described in subdivision (a) at the time service is attempted, the levying officer shall execute the writ of possession by posting a copy of the writ in a conspicuous place on the property and serving a copy of the writ of possession on the judgment debtor. Service shall be made personally or by mail. If the judgment debtor's address is not known, the copy of the writ may be served by mailing it to the address of the property.

(c) If the judgment debtor, members of the judgment debtor's household, and any other occupants holding under the judgment debtor do not vacate the property within five days from the date of service on an occupant pursuant to subdivision (a) or on the judgment debtor pursuant to subdivision (b), the levying officer shall remove the occupants from the property and place the judgment creditor in possession. The provisions of Section 684.120 extending time do not apply to the five-day period specified in this subdivision.

(d) Notwithstanding subdivision (c), unless the person is named in the writ, the levying officer may not remove any person from the property who claims a right to possession of the property accruing prior to the commencement of the unlawful detainer action or who claims to have been in possession of the property on the date of the filing of the unlawful detainer action. However, if the summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46, no occupant of the premises, whether or not the occupant is named in the judgment for possession, may object to the enforcement of the judgment as prescribed in Section 1174.3.

SEC. 5. Section 1169 of the Code of Civil Procedure is amended to read:

1169. If at the time appointed any defendant served with a summons does not appear and defend, the clerk, or the judge if there is no clerk, upon written application of the plaintiff and proof of the service of summons and complaint, shall enter the default of any defendant so served, and, if requested by the plaintiff, immediately shall enter judgment for restitution of the premises and shall issue a writ of execution thereon. The application for default judgment and the default judgment shall include a place to indicate that the judgment includes tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises. Thereafter, the plaintiff may apply to the court for any other relief demanded in the complaint, including the costs, against the defendant, or defendants, or against one or more of the defendants.

SEC. 6. Section 1174.25 of the Code of Civil Procedure is amended to read:

1174.25. (a) Any occupant who is served with a prejudgment claim of right to possession in accordance with Section 415.46 may file a claim as prescribed in Section 415.46, with the court within 10 days of the date of service of the prejudgment claim to right of possession as shown on the return of service, which period shall include Saturday and Sunday but excluding all other judicial holidays. If the last day for filing the claim falls on a Saturday or Sunday, the filing period shall be extended to and including the next court day. Filing the prejudgment claim of right to possession shall constitute a general appearance for which a fee shall be collected as provided in Section 72056 of the Government Code. Section 68511.3 of the Government Code applies to the prejudgment claim of right to possession.

(b) At the time of filing, the claimant shall be added as a defendant in the action for unlawful detainer and the clerk shall notify the plaintiff that the claimant has been added as a defendant in the action by mailing a copy of the claim filed with the court to the plaintiff with a notation so indicating. The claimant shall answer or otherwise respond to the summons and complaint within five days, including Saturdays and Sundays but excluding all other judicial holidays, after filing the prejudgment claim of possession. Thereafter, the name of the claimant shall be added to any pleading, filing or form filed in the action for unlawful detainer.

SEC. 7. Section 1174.3 of the Code of Civil Procedure is amended to read:

1174.3. (a) Unless a prejudgment claim of right to possession has been served upon occupants in accordance with Section 415.46, any occupant not named in the judgment for possession who occupied the premises on the date of the filing of the action may object to enforcement of the judgment against that occupant by filing a claim of right to possession as prescribed in this section. A claim of right to possession may be filed at any time after service or posting of the writ of possession pursuant to subdivision (a) or (b) of Section 715.020, up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession. Filing the claim of right to possession shall constitute a general appearance for which a fee shall be collected as provided in Section 72056 of the Government Code. Section 68511.3 of the Government Code applies to the claim of right to possession. An occupant or tenant who is named in the action shall not be required to file a claim of right to possession to protect that occupant's right to possession of the premises.

(b) The court issuing the writ of possession of real property shall set a date or dates when the court will hold a hearing to determine the validity of objections to enforcement of the judgment specified in subdivision (a). An occupant of the real property for which the writ is issued may make an objection to eviction to the levying officer

at the office of the levying officer or at the premises at the time of the eviction.

If a claim of right to possession is completed and presented to the sheriff, marshal, or other levying officer, the officer shall forthwith (1) stop the eviction of occupants at the premises, and (2) provide a receipt or copy of the completed claim of right of possession to the claimant indicating the date and time the completed form was received, and (3) deliver the original completed claim of right to possession to the court issuing the writ of possession of real property.

(c) A claim of right to possession is effected by any of the following:

(1) Presenting a completed claim form in person with identification to the sheriff, marshal, or other levying officer as prescribed in this section, and delivering to the court within two court days after its presentation, an amount equal to 15 days' rent together with the appropriate fee or form for proceeding in forma pauperis. Upon receipt of a claim of right to possession, the sheriff, marshal, or other levying officer shall indicate thereon the date and time of its receipt and forthwith deliver the original to the issuing court and a receipt or copy of the claim to the claimant and notify the plaintiff of that fact. Immediately upon receipt of an amount equal to 15 days' rent and the appropriate fee or form for proceeding in forma pauperis, the court shall file the claim of right to possession and serve an endorsed copy with the notice of the hearing date on the plaintiff and the claimant by first-class mail. The court issuing the writ of possession shall set and hold a hearing on the claim not less than five nor more than 15 days after the claim is filed with the court.

(2) Presenting a completed claim form in person with identification to the sheriff, marshal, or other levying officer as prescribed in this section, and delivering to the court within two court days after its presentation, the appropriate fee or form for proceeding in forma pauperis without delivering the amount equivalent to 15 days' rent. In this case, the court shall immediately set a hearing on the claim to be held on the fifth day after the filing is completed. The court shall notify the claimant of the hearing date at the time the claimant completes the filing by delivering to the court the appropriate fee or form for proceeding in forma pauperis, and shall notify the plaintiff of the hearing date by first-class mail. Upon receipt of a claim of right to possession, the sheriff, marshal, or other levying officer shall indicate thereon the date and time of its receipt and forthwith deliver the original to the issuing court and a receipt or copy of the claim to the claimant and notify the plaintiff of that fact.

(d) At the hearing, the court shall determine whether there is a valid claim of possession by the claimant who filed the claim, and the court shall consider all evidence produced at the hearing, including, but not limited to, the information set forth in the claim. The court may determine the claim to be valid or invalid based upon the evidence presented at the hearing. The court shall determine the

claim to be invalid if the court determines that the claimant is an invitee, licensee, guest, or trespasser. If the court determines the claim is invalid, the court shall order the return to the claimant of the amount of the 15 days' rent paid by the claimant, if that amount was paid pursuant to paragraphs (1) or (3) of subdivision (c), less a pro rata amount for each day that enforcement of the judgment was delayed by reason of making the claim of right to possession, which pro rata amount shall be paid to the landlord. If the court determines the claim is valid, the amount equal to 15 days' rent paid by the claimant shall be returned immediately to the claimant.

(e) If, upon hearing, the court determines that the claim is valid, then the court shall order further proceedings as follows:

(1) If the unlawful detainer is based upon a curable breach, and the claimant was not previously served with a proper notice, if any notice is required, then the required notice may at the plaintiff's discretion be served on the claimant at the hearing or thereafter. If the claimant does not cure the breach within the required time, then a supplemental complaint may be filed and served on the claimant as defendant if the plaintiff proceeds against the claimant in the same action. For the purposes of this section only, service of the required notice, if any notice is required, and of the supplemental complaint may be made by first-class mail addressed to the claimant at the subject premises or upon his or her attorney of record and, in either case, Section 1013 shall otherwise apply. Further proceedings on the merits of the claimant's continued right to possession after service of the Summons and Supplemental Complaint as prescribed by this subdivision shall be conducted pursuant to this chapter.

(2) In all other cases, the court shall deem the unlawful detainer Summons and Complaint to be amended on their faces to include the claimant as defendant, service of the Summons and Complaint, as thus amended, may at the plaintiff's discretion be made at the hearing or thereafter, and the claimant thus named and served as a defendant in the action shall answer or otherwise respond within five days thereafter.

(f) If a claim is made without delivery to the court of the appropriate filing fee or a form for proceeding in forma pauperis, as prescribed in this section, the claim shall be immediately deemed denied and the court shall so order. Upon the denial of the claim, the court shall immediately deliver an endorsed copy of the order to the levying officer and shall serve an endorsed copy of the order on the plaintiff and claimant by first-class mail.

(g) If the claim of right to possession is denied pursuant to subdivision (f), or if the claimant fails to appear at the hearing or, upon hearing, if the court determines that there are no valid claims, or if the claimant does not prevail at a trial on the merits of the unlawful detainer action, the court shall order the levying officer to proceed with enforcement of the original writ of possession of real property as deemed amended to include the claimant, which shall be effected within a reasonable time not to exceed five days. Upon

receipt of the court's order, the levying officer shall enforce the writ of possession of real property against any occupant or occupants.

(h) The claim of right to possession shall be made on the following form:

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address):	TELEPHONE NO.	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME.		
PLAINTIFF: DEFENDANT:		
CLAIM OF RIGHT TO POSSESSION AND NOTICE OF HEARING		CASE NUMBER:

(For levying officer use only)
Completed form was received on
Date. _____ Time: _____
By: _____

Complete this form only if ALL of these statements are true:
1. You are NOT named in the accompanying form called Writ of Possession.
2. You occupied the premises on or before the date the unlawful detainer (eviction) action was filed. (The date is in the accompanying Writ of Possession.)
3. You still occupy the premises.

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit no., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): [ ] , the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is in the accompanying Writ of Possession.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).

CLAIM OF RIGHT TO POSSESSION
AND NOTICE OF HEARING

8. I was not named in the Writ of Possession.
9. I understand that if I make this claim of possession, a court hearing will be held to decide whether my claim will be granted.
10. (Filing fee) To obtain a court hearing on my claim, I understand that after I present this form to the levying officer I must go to the court and pay a filing fee of $ or file with the court "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file the form for waiver of court fees within 2 court days, the court will immediately deny my claim.
11. (Immediate court hearing unless you deposit 15 days' rent) To obtain a court hearing on my claim, I understand I must also present a copy of this completed complaint form or a receipt from the levying officer. I also understand the date of my hearing will be set immediately if I do not deliver to the court an amount equal to 15 days' rent.

I am filing my claim in the following manner (check the box that shows how you are filing your claim. Note that you must deliver to the court a copy of the claim form or a levying officer's receipt):

a. ☐ I presented this claim form to the sheriff, marshal, or other levying officer, and within two court days I shall deliver to the court the following: (1) a copy of this completed claim form or a receipt, (2) the court filing fee or form for proceeding in forma pauperis, and (3) an amount equal to 15 days' rent; or

b. ☐ I presented this claim form to the sheriff, marshal, or other levying officer, and within two court days I shall deliver to the court (1) a copy of this completed claim form or a receipt, and (2) the court filing fee or form for proceeding in forma pauperis.

IMPORTANT: Do not take a copy of this claim form to the court unless you have first given the form to the sheriff, marshal, or other levying officer.

(To be completed by the court.)			
Date of Hearing:	Time:	Dept. or Div.:	Room:
Address of court:			

NOTICE: If you fail to appear at this hearing you will be evicted without further hearing.

CLAIM OF RIGHT TO POSSESSION
AND NOTICE OF HEARING

12. Rental agreement. I have (check all that apply to you):

a. ☐ an oral rental agreement with the landlord.
b. ☐ a written rental agreement with the landlord.
c. ☐ an oral rental agreement with a person other than the landlord.
d. ☐ a written rental agreement with a person other than the landlord.
e. ☐ other (explain):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

. . . . . ▶ _____

(TYPE OR PRINT NAME) (SIGNATURE OF CLAIMANT)

NOTICE If your claim to possession is found to be valid, the unlawful detainer action against you will be determined at trial At trial, you may be found liable for rent, costs, and, in some cases, treble damages

CLAIM OF RIGHT TO POSSESSION
AND NOTICE OF HEARING

NOTICE TO OCCUPANTS

YOU MUST ACT AT ONCE IF ALL THE FOLLOWING ARE TRUE:

(1) You are not named in the accompanying form called Writ of Possession;

(2) You occupied the premises on or before the date the unlawful detainer (eviction) action was filed; and

(3) You still occupy the premises.

You can complete and SUBMIT THIS CLAIM FORM

(1) before the date of eviction at the sheriff's or marshal's office located at: (address)

(2) OR at the premises at the time of the eviction. (Give this form to the officer who comes to evict you.)

If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), YOU WILL BE EVICTED along with the parties named in the writ.

After this form is properly filed, A HEARING WILL BE HELD to decide your claim. If you do not appear at the hearing, you will be evicted without a further hearing.

CLAIM OF RIGHT TO POSSESSION
AND NOTICE OF HEARING

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

In order to clarify the law with respect to default judgments and unlawful detainer actions, it is necessary that this act take effect immediately.

CHAPTER 58

An act to amend Section 25995.3 of the Health and Safety Code, relating to dogs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 14, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 25995.3 of the Health and Safety Code is amended to read:

25995.3. Every retail dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) If the person from whom the dog or cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number.

(b) The date of the animal's birth, unless unknown because of the source of such animal.

(c) A record of the immunizations administered to the animal as of the time of sale, including the dates of administration and the type of vaccine.

(d) A record of any known disease or sickness that the cat is afflicted with at the time of sale.

(e) A record of any veterinarian treatment or medication received by a dog while in the possession of a retail pet dealer to treat any disease, illness, or condition that required hospitalization or surgical procedures, and either of the following:

(1) A statement that the dog has no known disease, illness, or condition that requires hospitalization or surgical procedures at the time of sale.

(2) A record of any known disease, illness, or condition that the dog is afflicted with at the time of sale, along with a statement, signed by a licensed veterinarian in the State of California, which authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or surgical procedures. A veterinarian statement is

not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following inspection of the dog by the veterinarian.

(f) A disclosure made pursuant to paragraph (2) of subdivision (e) shall be signed by both the pet dealer certifying the accuracy of the statement, and the purchaser of the dog acknowledging receipt of the statement. In addition, all information required to be disclosed pursuant to this subsection shall be made orally to the purchaser.

(g) For purposes of this section and Section 25995.8, a disease, illness, or condition that requires hospitalization or surgical procedures shall be one which is apparent at the time of sale or which should have been known by the retail pet dealer from the history of veterinary treatment disclosed pursuant to subdivision (e).

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 implement provisions relating to the sale of dogs it is necessary that this act take effect immediately.

CHAPTER 59

An act to amend Section 51.4 of the Civil Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 14, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 51.4 of the Civil Code is amended to read:

51.4. (a) The Legislature finds and declares that the requirements for senior housing under Section 51.2 and 51.3 are more stringent than the requirements for that housing under the federal Fair Housing Amendments Act of 1988 (Public Law 100-430) in recognition of the acute shortage of housing for families with children in California. The Legislature further finds and declares that the special design requirements for senior housing under Sections 51.2 and 51.3 may pose a hardship to some housing developments which were constructed before the decision in Marina Point Ltd. v. Wolfson (1982), 30 Cal. 3d 72. The Legislature further finds and declares that the requirement for specially designed accommodations in senior housing under Section 51.2 and 51.3 provides important benefits to senior citizens and also ensures that housing exempt from the prohibition of age discrimination is carefully tailored to meet the compelling societal interest in providing senior housing. Therefore, it is the intent of the

Legislature to permit a narrow, time-limited exception to the requirement that senior housing be specially designed.

(b) A housing development constructed before February 8, 1982, shall be exempt from Section 51 to the extent specified in Section 51.2 if (1) it meets the requirements of Sections 51.2 and 51.3, other than the requirement that the housing be specially designed to meet the physical and social needs of senior citizens, (2) it is not practicable to meet that requirement in the relevant geographic area where the housing development is located, and (3) the housing development is necessary to provide important housing opportunities for senior citizens. As used in this section, "relevant geographic area" has the same meaning as that term is used in Section 100.304 of Title 24 of the Code of Federal Regulations.

(c) In any action under Section 51, the exemption under this section shall be sustained only if it is demonstrated through credible and objective evidence that application of a requirement for specially designed accommodations to meet the physical and social needs of senior citizens would result in depriving senior citizens in the relevant geographic area of needed and desired housing. The factors to be considered by the court in determining the applicability of this section shall include, but not be limited to, all of the following:

(1) Whether the owner or manager of the housing facility has endeavored to provide specially designed accommodations to meet the physical and social needs of senior citizens persons either directly or by some other entity. Demonstrating that these accommodations would be expensive to provide is not alone sufficient to demonstrate their impracticability.

(2) The amount of rent charged for dwellings in the housing development seeking an exemption under this section if the dwellings are rented, or the price of the dwellings if they are offered for sale.

(3) The income range of the residents of the housing development.

(4) The demand for housing for senior citizens in the affected geographic area.

(5) The range of housing choices for senior citizens within the relevant geographic area.

(6) The availability of other similarly priced housing for senior citizens in the relevant geographic area. If similarly priced senior citizen housing with specially designed accommodations is reasonably available in the relevant geographic area, then the housing facility does not meet the requirements for exemption under this section.

(7) The vacancy rate of the housing development.

(d) Any person who resided in, occupied, or used the housing subject to this section prior to January 1, 1990, shall not be deprived of the right to continue that residency, occupancy, or use as the result of this section.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid a shortage of senior housing in certain areas of the state, it is necessary that this act go into immediate effect.

CHAPTER 60

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 14, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Pursuant to Section 5096.96 of the Public Resources Code, the City of Lemon Grove may sell to any public entity or private party the real property known as Skyline Drive Park, which was acquired by the County of San Diego with a grant of state funds appropriated in category (250) of Item 390 of the Budget Act of 1975 (Chapter 176 of the Statutes of 1975) and pursuant to Department of Parks and Recreation project #37-0019 and subsequently deeded to the City of Lemon Grove, subject to all of the following conditions:

(a) The park and all improvements thereon shall be sold for at least fair market value, but in no event for less than the sum of forty-seven thousand two hundred forty-five dollars ($47,245), excluding the costs of sale.

(b) All proceeds of the sale, excluding the costs of sale, shall be expended only for the acquisition or development, or both, of park and recreation facilities in the city. Any proceeds not expended for this purpose or in any case not expended within three years of the date of sale of the property shall be transmitted to the Department of Parks and Recreation and deposited in the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

(c) Prior to transferring title to the park, the city council shall hold one or more public hearings on the subject of the new facilities to be acquired or developed with the proceeds of the sale and shall determine what new facilities shall be acquired or developed.

(d) Prior to encumbering any proceeds from the sale, the city shall enter into an agreement with the Department of Parks and Recreation with respect to the facilities to be acquired or developed as provided in Section 5096.96 of the Public Resources Code.

SEC. 2. (a) The City of San Buenaventura may convey the "Peirano Building," a structure designated on the National Register of Historic Places, Mission Historic District, located at 204 and 208 East Main Street, Ventura, California (Assessors Parcel Number 073-0-031-170), to the Redevelopment Agency of the City of San

Buenaventura, which may convey it to a private individual for the purposes of rehabilitation, or which may undertake the rehabilitation itself for subsequent conveyance to a private individual, in conformance with the Secretary of Interior's Standards for Historic Preservation Project (36 Code of Federal Regulations 1207). The ultimate use of the building shall be in conformance with local laws.

(b) Upon conveyance of the property, the City of San Buenaventura shall do one of the following:

(1) Return to the Historical Resources Preservation Category, set forth in paragraph (4) of subdivision (a) of Section 5096.231 of the Public Resources Code, an amount equal to the amount of the grant in 1987 from the Office of Historic Preservation relating to the Peirano Building or equal to the fair market value of the real property, or portion thereof, acquired, developed, rehabilitated, or restored with the grant, whichever is greater.

(2) Use an amount equal to the amount of the grant or equal to the fair market value of the real property, or portion thereof, acquired, developed, rehabilitated, or restored with the grant, whichever is greater, to acquire or develop an historic resource within its jurisdiction and meeting, as verified by the State Historic Preservation Officer, the eligibility requirements of the Historical Resources Preservation Category set forth in paragraph (4) of subdivision (a) of Section 5096.231 of the Public Resources Code, provided that the applicant agrees that any work done on that alternate property shall comply with the Secretary of the Interior's Standards for Historic Preservation Project (36 C.F.R. 1207), subject to the prior review and approval of the State Historic Preservation Officer.

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 sale of property authorized pursuant to this act may be accomplished as expeditiously as possible and that park and recreational facilities may be provided at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 61

An act to amend Section 93001 of the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 14, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 93001 of the Government Code is amended to read:

93001. It is the intent of the Legislature, in enacting this title, to provide an alternative for ensuring railroad service if the Interstate Commerce Commission authorizes the abandonment or discontinuance of service on, or in the event of the bankruptcy or sale of, the current Eureka Southern Railroad line, the Northwestern Pacific Railroad line, or the California Western Railroad line.

It is the intent of the Legislature to provide a means to consider and, if justified, to pursue economic development opportunities and projects related to rail service along these railroad lines.

It is the further intent of the Legislature that this title not provide a justification for the commission to grant a petition for abandonment or discontinuance of service on any of those lines.

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 North Coast Railroad Authority to be authorized to proceed to provide alternative rail service if other arrangements cannot be made for the continued operation of the Eureka Southern Railroad, which is presently in bankruptcy and for which the period of bankruptcy protection expires on December 15, 1991, it is necessary that this act take effect immediately.

CHAPTER 62

An act to amend Section 798.28 of the Civil Code, relating to mobilehomes.

[Approved by Governor June 14, 1991 Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 798.28 of the Civil Code is amended to read:

798.28. The management of a mobilehome park shall disclose, in

writing, the name , business address, and business telephone number of the mobilehome park owner upon the request of a homeowner.

CHAPTER 63

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

[Approved by Governor June 16, 1991. Filed with Secretary of State June 17, 1991]

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

SECTION 1. (a) During the 1990–91 fiscal year, the City of Alhambra may make a one-time transfer of funds from its special gas tax street improvement fund to a special city streets and signals fund established primarily for the purpose of funding street maintenance and improvements, in order to eliminate a preexisting deficit in the special city streets and signals fund which has developed over more than one fiscal year.

(b) None of the funds contained in the special city streets and signals fund, which were transferred from the special gas tax street improvement fund, shall be considered part of the city's general fund for the purpose of calculating general fund expenditures for street and highway purposes pursuant to subdivision (c) of Section 2105 of the Streets and Highways Code.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances involving the special funds in the City of Alhambra.

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 transfer of city funds authorized by this act may be accomplished during the 1990–91 fiscal year, thereby enabling necessary improvements to be undertaken at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 64

An act to amend Sections 46606 and 52314 of, and to repeal Section 46608 of, the Education Code, relating to regional occupational programs.

[Approved by Governor June 16, 1991. Filed with Secretary of State June 17, 1991.]

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

SECTION 1. Section 46606 of the Education Code is amended to read:

46606. (a) A regional occupational program or regional occupational center maintained by a school district, county superintendent of schools, or a regional occupational program or regional occupational center maintained by two or more school districts pursuant to a joint powers or cooperative agreement, may admit pupils who reside outside the attendance area of the regional occupational program or regional occupational center.

(b) The average daily attendance for attendance of pupils who reside outside of the regional occupational center or program attendance area and are enrolled in a regional occupational center or program pursuant to Section 52317 shall be credited to the regional occupational center or program that incurs the training costs for purposes of determining state apportionments and the revenue limits.

(c) For purposes of computing the revenue limits for pupils who enroll in a regional occupational center or program outside their district of residence, the regional occupational center or program shall claim its own revenue limit.

(d) The regional occupational center or program is not eligible for state reimbursement for home-to-school transportation allowances for pupils who are enrolled in the regional occupational center or program pursuant to this section.

SEC. 2. Section 46608 of the Education Code is repealed.

SEC. 3. Section 52314 of the Education Code is amended to read:

52314. (a) Except as provided in subdivision (b), any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is eligible to attend a regional occupational center or regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any such cooperating school districts may admit to the

center, or program, any pupil, otherwise eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to the center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults under Section 52610 shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his or her admission to the regional occupational center or regional occupational program.

A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be.

(b) No pupil shall be eligible to be admitted to a regional occupational center or program, nor may his or her attendance be credited to a regional occupational center or program, until he or she has attained the age of 16 years, unless the pupil meets one or more of the following conditions:

(1) The pupil is enrolled in grade 11 or a higher grade.

(2) The pupil received a referral and:

(A) The pupil is referred to a regional occupational center or program by a school counselor, school administrator, or classroom teacher. The referral shall include a written statement of the reasons why the pupil's educational needs cannot be met without the pupil being enrolled in a regional occupational center or program.

Pupils under 16 years of age eligible for enrollment in regional occupational centers and programs under this paragraph include, but are not necessarily limited to, pupils for whom there is a high probability that they will leave school prior to graduation.

(B) The referral is reviewed and approved by the principal of the school in which the pupil is enrolled.

(C) The referral is reviewed and approved by the director of the regional occupational center or program to which the pupil has been referred.

(D) The pupil is enrolled in a high school, which, for purposes of this requirement, means a school that maintains any of grades 9 to 12, inclusive.

(3) The pupil's individualized education program adopted pursuant to the requirements of Chapter 2 (commencing with Section 56300) of Part 30 prescribes occupational training for which his or her enrollment in a regional occupational center or program is deemed appropriate.

(c) Each school district, county superintendent of schools, or joint powers agency which maintains a regional occupational center or regional occupational program shall submit to the State Department of Education, at the time and in the manner prescribed by the

Superintendent of Public Instruction, the enrollment and average daily attendance for each grade level and the enrollment and average daily attendance for each exemption set forth in subdivision (b).

The State Department of Education shall submit this information to the Legislature and to the Director of Finance by April 1 of each year for the preceding school year.

CHAPTER 65

An act to amend Section 39141.4 of the Education Code, relating to schools.

[Approved by Governor June 17, 1991. Filed with Secretary of State June 18, 1991.]

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

SECTION 1. Section 39141.4 of the Education Code is amended to read:

39141.4. (a) Notwithstanding any provision of law except Sections 39141.5, 39141.6, and 39304.5, a leased building that does not meet the requirements of Section 39140 may not be used as a school building, as defined in Section 39141, after September 1, 1990.

(b) Notwithstanding any other provision of law, a building leased pursuant to Section 52308 may be used after September 1, 1991, as a regional occupational center or program that does not meet the requirements of Section 39140, provided the building satisfies all of the following conditions:

(1) The facility is one of the following:

(A) A single story, wood-framed structure.

(B) A single story, light steel frame structure.

(C) A structure for which a structural engineer has submitted a report that certifies that substantial structural hazards do not exist, as to that structure. The governing board of the regional occupational center or program, as provided for under Section 52310.5, shall review the report prior to approval of the lease and may reject the report if there is any evidence of fraud regarding the facts in the report.

(2) The building or structure complies with all applicable local building standards and all applicable local health and safety standards in the community in which it is located.

(3) The governing board of the regional occupational center or program, as provided for under Section 52310.5, certifies to the State Allocation Board that reasonable efforts have been made to locate the regional occupational center or program in facilities that conform to the seismic safety standards set forth in Part 2 (commencing with Section 2-101), Part 3 (commencing with Section

3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(c) On or before September 1, 1994, and every three years thereafter, each governing board of a regional occupational center or program shall report to the State Allocation Board on the facilities utilized for the operation of that center or program and on efforts to place the center or program in facilities that conform to the seismic safety standards described in paragraph (3) of subdivision (b).

CHAPTER 66

An act to amend Section 54954.3 of the Government Code, relating to open meetings.

[Approved by Governor June 19, 1991. Filed with Secretary of State June 20, 1991.]

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

SECTION 1. Section 54954.3 of the Government Code is amended to read:

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, in the case of a meeting of a city council in a city or a board of supervisors in a city and county, the agenda need not provide an opportunity for members of the public to address the council or board on any item that has already been considered by a committee, composed exclusively of members of the council or board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the council or board.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

CHAPTER 67

An act to amend Section 1951.4 of, and to add Article 3 (commencing with Section 1995.300) to Chapter 6 of, and Chapter 7 (commencing with Section 1997.010) to, Title 5 of Part 4 of Division 3 of, the Civil Code, relating to real property leases.

[Approved by Governor June 19, 1991. Filed with Secretary of State June 20, 1991.]

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

SECTION 1. Section 1951.4 of the Civil Code is amended to read:

1951.4. (a) The remedy described in this section is available only if the lease provides for this remedy. In addition to any other type of provision used in a lease to provide for the remedy described in this section, a provision in the lease in substantially the following form satisfies this subdivision:

"The lessor has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations)."

(b) Even though a lessee of real property has breached the lease and abandoned the property, the lease continues in effect for so long as the lessor does not terminate the lessee's right to possession, and the lessor may enforce all the lessor's rights and remedies under the lease, including the right to recover the rent as it becomes due under the lease, if any of the following conditions is satisfied:

(1) The lease permits the lessee, or does not prohibit or otherwise restrict the right of the lessee, to sublet the property, assign the lessee's interest in the lease, or both.

(2) The lease permits the lessee to sublet the property, assign the lessee's interest in the lease, or both, subject to express standards or conditions, provided the standards and conditions are reasonable at the time the lease is executed and the lessor does not require compliance with any standard or condition that has become unreasonable at the time the lessee seeks to sublet or assign. For purposes of this paragraph, an express standard or condition is presumed to be reasonable; this presumption is a presumption affecting the burden of proof.

(3) The lease permits the lessee to sublet the property, assign the lessee's interest in the lease, or both, with the consent of the lessor, and the lease provides that the consent shall not be unreasonably withheld or the lease includes a standard implied by law that consent shall not be unreasonably withheld.

(c) For the purposes of subdivision (b), the following do not constitute a termination of the lessee's right to possession:

(1) Acts of maintenance or preservation or efforts to relet the

property.

(2) The appointment of a receiver upon initiative of the lessor to protect the lessor's interest under the lease.

(3) Withholding consent to a subletting or assignment, or terminating a subletting or assignment, if the withholding or termination does not violate the rights of the lessee specified in subdivision (b).

SEC. 2. Article 3 (commencing with Section 1995.300) is added to Chapter 6 of Title 5 of Part 4 of Division 3 of the Civil Code, to read:

Article 3. Breach and Remedies

1995.300. A remedy provided by law for violation of the rights of the tenant or of the landlord concerning transfer of a tenant's interest in a lease, including a remedy provided in this article, is (a) subject to an express provision in the lease that affects the remedy and (b) subject to any applicable defense, whether legal or equitable, including, but not limited to, waiver and estoppel.

1995.310. If a restriction on transfer of a tenant's interest in a lease requires the landlord's consent for transfer subject to an express or implied standard that the landlord's consent may not be unreasonably withheld, and the landlord unreasonably withholds consent to a transfer in violation of the tenant's rights under the lease, in addition to any other remedies provided by law for breach of a lease, the tenant has all the remedies provided for breach of contract, including, but not limited to, either or both of the following:

(a) The right to contract damages caused by the landlord's breach.

(b) The right to terminate the lease.

1995.320. If a tenant transfers the tenant's interest in a lease in violation of a restriction on transfer of the tenant's interest in the lease, in addition to any other remedies provided by law for breach of a lease, the landlord has all the remedies provided for breach of contract, including, but not limited to, either or both of the following:

(a) The right to contract damages caused by the tenant's breach.

(b) The right to terminate the lease.

1995.330. (a) An assignee who receives or makes a transfer in violation of a restriction on transfer of a tenant's interest in a lease is jointly and severally liable with the tenant for contract damages under Section 1995.320. For this purpose, the provisions of Section 1951.2 applicable to a lessee apply to an assignee.

(b) The landlord's right to terminate a lease under Section 1995.320 includes the right to terminate a transfer without terminating the lease. If the landlord terminates a transfer without terminating the lease, the assignee or subtenant in possession is guilty of unlawful detainer and the landlord may obtain possession from the assignee or subtenant without terminating the right to possession of the tenant. For this purpose, the landlord may use the procedure

provided in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, with the changes necessary to make the procedure applicable to this subdivision.

1995.340. (a) Subject to subdivision (b), a restriction on transfer of a tenant's interest in a lease applies to a subsequent transfer by a tenant, an assignee, or a subtenant notwithstanding the landlord's consent to a prior transfer or the landlord's waiver of a standard or condition for a prior transfer.

(b) Subdivision (a) does not apply if either of the following conditions is satisfied:

(1) The lease provides expressly that the restriction on transfer is limited to the original tenant.

(2) The landlord states expressly in writing that the consent or waiver applies to a subsequent transfer.

SEC. 3. Chapter 7 (commencing with Section 1997.010) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 7. USE RESTRICTIONS

Article 1. General Provisions

1997.010. This chapter applies to a restriction on use of leased property by a tenant under a lease of real property for other than residential purposes.

1997.020. As used in this chapter:

(a) "Landlord" includes a tenant who is a sublandlord under a sublease.

(b) "Lease" means a lease or sublease of real property for other than residential purposes, and includes modifications and other agreements affecting a lease.

(c) "Restriction on use" means a provision in a lease that restricts the use of leased property by a tenant, whether by limiting use to a specified purpose, mandating use for a specified purpose, prohibiting use for a specified purpose, limiting or prohibiting a change in use, or otherwise.

(d) "Tenant" includes a subtenant or assignee.

1997.030. Nothing in this chapter authorizes a restriction on use that is otherwise prohibited by law.

1997.040. (a) For the purpose of subdivision (a) of Section 1951.2 (damages on termination for breach), the amount of rental loss that could be or could have been reasonably avoided is computed by taking into account any reasonable use of the leased property. However, if the lease contains a restriction on use that is enforceable under this chapter, the computation shall take into account the restricted use of the property except to the extent the tenant proves that under all the circumstances enforcement of the restriction would be unreasonable. The circumstances include, but are not limited to, those involving both the leased property and any building or complex in which it is located.

(b) The remedy described in Section 1951.4 (continuation of lease after breach and abandonment) is available notwithstanding the presence in the lease of a restriction on use of the leased property. The restriction on use applies under Section 1951.4 if it is enforceable under this chapter except to the extent the tenant proves that under all the circumstances enforcement of the restriction would be unreasonable. The circumstances include, but are not limited to, those involving both the leased property and any building or complex in which it is located.

1997.050. Except as provided in Section 1997.270, this chapter applies to a lease executed before, on, or after January 1, 1992.

Article 2. Use Restrictions

1997.210. (a) Subject to the limitations in this chapter, a lease may include a restriction on use of leased property by a tenant.

(b) Unless the lease includes a restriction on use, a tenant's rights under a lease include any reasonable use of leased property.

1997.220. An ambiguity in a restriction on use of leased property by a tenant shall be construed in favor of unrestricted use.

1997.230. A restriction on use of leased property by a tenant may absolutely prohibit a change in use.

1997.240. A restriction on use of leased property by a tenant may provide that a change in use is subject to any express standard or condition.

1997.250. A restriction on use of leased property by a tenant may require the landlord's consent for a change in use subject to any express standard or condition for giving or withholding consent, including, but not limited to, either of the following:

(a) The landlord's consent may not be unreasonably withheld.

(b) The landlord's consent may be withheld subject to express standards or conditions.

1997.260. If a restriction on use of leased property by a tenant requires the landlord's consent for a change in use but provides no standard for giving or withholding consent, the restriction shall be construed to include an implied standard that the landlord's consent may not be unreasonably withheld. Whether the landlord's consent has been unreasonably withheld in a particular case is a question of fact on which the tenant has the burden of proof. The tenant may satisfy the burden of proof by showing that, in response to the tenant's written request for a statement of reasons for withholding consent, the landlord has failed, within a reasonable time, to state in writing a reasonable objection to the change in use.

1997.270. (a) Section 1997.260 applies to a restriction on use executed on or after January 1, 1992. If a restriction on use executed before January 1, 1992, requires the landlord's consent for a change in use of leased premises by a tenant, but provides no standard for giving or withholding consent, the landlord has sole and absolute discretion to give or withhold consent.

(b) For purposes of this section, if the terms of a restriction on change in use are fixed by an option or other agreement, the restriction on change in use is deemed to be executed on the date of execution of the option or other agreement.

CHAPTER 68

An act to amend Section 41002.5 of the Education Code, relating to school funds.

[Approved by Governor June 21, 1991. Filed with Secretary of State June 21, 1991.]

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

SECTION 1. Section 41002.5 of the Education Code is amended to read:

41002.5. Notwithstanding Sections 41001 and 41002, money received from the sources, or for the purposes listed in subdivisions (a) to (h), inclusive, may be deposited in a bank or other financial institution whose accounts are federally insured. Any money so deposited shall be in an account or accounts fully covered by that insurance:

(a) Funds received for the purpose of making loans, scholarships, or grants to students in, or graduates of, a school under the jurisdiction of the governing board of the district.

(b) Funds received for the sale of food or other services performed by one or more cafeterias established in the schools of the district.

(c) Funds received from the sale of produce, livestock, and other products of one or more school farms established in the district.

(d) Clearing accounts established pursuant to Section 41017.

(e) Funds of a student body organization.

(f) Funds in a revolving cash fund established pursuant to Section 42820.

(g) Funds for community recreation programs established pursuant to Chapter 10 (commencing with Section 10900) of Part 7.

(h) Funds that, pursuant to any other law or provision of the California School Accounting Manual, may be deposited in a bank or other federally insured financial institution in lieu of the county treasury.

CHAPTER 69

An act to repeal Section 4 of Chapter 1351 of the Statutes of 1989, relating to migrant farmworkers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 21, 1991 Filed with Secretary of State June 21, 1991.]

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

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

(a) The Office of Migrant Services of the Department of Housing and Community Development operates 28 temporary residential centers for migrant farmworkers through local public housing agencies.

(b) These temporary residential centers protect the health and safety of adults and children involved in agricultural employment and ensure that agricultural producers have access to available, healthy workers during the growing season.

(c) The subfreezing weather of late 1990 and early 1991 caused approximately five hundred twenty-five thousand dollars ($525,000) of damage to the temporary residential centers. Funds were redirected from rehabilitation and maintenance repairs of the temporary residential centers to repair freeze damage, and this resulted in a postponement of these needed repairs.

SEC. 2. Section 4 of Chapter 1351 of the Statutes of 1989 is repealed.

SEC. 3. (a) Notwithstanding any other provision of law, the Department of Housing and Community Development shall retain any and all federal funds it receives for reimbursement of costs incurred by the department to finance repairs to, or replacement of, any portions of any housing centers that are operated pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code, provided that those costs are related to the mitigation of damage to the housing centers resulting from the freezing weather of late 1990 and early 1991.

(b) Any and all federal funds retained by the department pursuant to subdivision (a) are hereby appropriated, without regard to fiscal years, to the Director of Housing and Community Development for expenditure for those local assistance activities authorized by Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code.

SEC. 4. The sum of five hundred thousand dollars ($500,000) is appropriated from the Farmworker Housing Grant Fund established by Section 50517.5 of the Health and Safety Code, for expenditure as follows:

(a) The sum of four hundred thousand dollars ($400,000) shall be

deposited into the San Diego County Farmworker Housing Account established by Section 50714 of the Health and Safety Code, to be expended for the purposes authorized by Section 50714 of the Health and Safety Code.

(b) The sum of one hundred thousand dollars ($100,000) shall be deposited into the Director's San Diego County Farmworker Housing Discretionary Account established by Section 50714.5 of the Health and Safety Code, to be expended for the purposes authorized by Section 50714.5 of the Health and Safety Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that funds required to provide necessary repairs, maintenance, and rehabilitation to state-owned temporary residential centers for migrant farmworkers are appropriated in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 70

An act to add Sections 50079.1 and 61615.1 to the Government Code, to add Sections 6092.5 and 6364 to the Harbors and Navigation Code, to add Section 8981.5 to the Health and Safety Code, to add Section 1192.5 to the Military and Veterans Code, to add Sections 9513 and 13161.5 to the Public Resources Code, to add Sections 12891.5, 16641.5, 22909, and 25892.1 to the Public Utilities Code, and to add Sections 22078.5, 31653, and 72090.5 to the Water Code, relating to local agencies.

[Approved by Governor June 21, 1991. Filed with Secretary of State June 21, 1991.]

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

SECTION 1. Section 50079.1 is added to the Government Code, to read:

50079.1. A community college district may impose a special tax pursuant to Article 3.5 (commencing with Section 50075). The special taxes shall be applied uniformly to all taxpayers or real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

SEC. 2. Section 61615.1 is added to the Government Code, to read:

61615.1. 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. 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. 3. Section 6092.5 is added to the Harbors and Navigation Code, to read:

6092.5. 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. 4. Section 6364 is added to the Harbors and Navigation Code, to read:

6364. 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. 5. Section 8981.5 is added to the Health and Safety Code, to read:

8981.5. 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. 6. Section 1192.5 is added to the Military and Veterans Code, to read:

1192.5. 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. 7. Section 9513 is added to the Public Resources Code, to read:

9513. 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. 8. Section 13161.5 is added to the Public Resources Code, to read:

13161.5. 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. 9. Section 12891.5 is added to the Public Utilities Code, to read:

12891.5. 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. 10. Section 16641.5 is added to the Public Utilities Code, to read:

16641.5. 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. 11. Section 22909 is added to the Public Utilities Code, to read:

22909. 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. 12. Section 25892.1 is added to the Public Utilities Code, to read:

25892.1. The district board 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. 13. Section 22078.5 is added to the Water Code, to read:

22078.5. 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. 14. Section 31653 is added to the Water Code, to read:

31653. 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. 15. Section 72090.5 is added to the Water Code, to read:

72090.5. 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.

CHAPTER 71

An act to amend Section 330 of the Penal Code, relating to gaming.

[Became law without Governor's signature. Filed with Secretary of State June 24, 1991]

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

SECTION 1. Section 330 of the Penal Code is amended to read:

330. Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

SEC. 2. It is the intent of the Legislature, by this act, to clarify the effect of Section 330 of the Penal Code on card room gaming in conformance with the holding in Tibbetts v. Van de Kamp, 222 Cal. App. 3d 389.

CHAPTER 72

An act to amend Section 30648 of, and to add Section 130265 to, the Public Utilities Code, relating to transit.

[Approved by Governor June 24, 1991. Filed with Secretary of State June 25, 1991.]

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

SECTION 1. Section 30648 of the Public Utilities Code is amended to read:

30648. (a) The Legislature recognizes that the district made specified representations regarding construction plans at the time it received authorization to proceed with the planning and

construction of an exclusive public mass transit guideway system.

(b) The Legislature further recognizes that it is traditionally less expensive to construct exclusive public mass transit guideway systems using two construction crews working from each terminus to the middle.

(c) Within three years after the start of construction of any portion of the exclusive public mass transit guideway system-San Fernando Valley-Downtown Los Angeles Metro Rail project, the district shall start station construction on the segment of the system in the San Fernando Valley, as defined in Section 11093 of the Government Code. In the aggregate, within one year after the start of construction of any portion of the project, the funding in each year for below-ground construction on the North Hollywood terminus station, which shall be located either adjacent to Lankershim Boulevard within one-half mile south of Chandler Street or adjacent to Chandler Street within one-half mile west of Lankershim Boulevard, as determined by the Los Angeles County Transportation Commission, and for tunneling and subway construction within this segment shall not be less than 15 percent of the amount of nonfederal funds allocated and spent in the previous year to construct the metro rail project. Any funds which would have been required to be spent on Valley Metro Rail construction pursuant to Chapter 617 of the Statutes of 1984, shall be deposited in a trust fund which shall be spent on qualified Valley Metro Rail construction pursuant to this subdivision, except that any interest earned on those funds may be used to subsidize commuter rail transportation serving the San Fernando Valley Statistical Area, as described in subdivision (g) of Section 76191 of the Government Code.

(d) If the entire public mass transit guideway system-San Fernando Valley-Downtown Los Angeles Metro Rail project is converted to an at-grade light rail system, then the construction to be done with the portion of the funds designated in subdivision (c) for tunneling and subway construction may be modified to conform to the mode of construction to be used on the entire route of the San Fernando Valley-Downtown Los Angeles Metro Rail project.

(e) Funding for this construction may include, but is not limited to, any of the following sources:

(1) Funds derived from Los Angeles County Transportation Commission revenue bonds.

(2) Funds derived from the Los Angeles County Transportation Commission one-half of 1 percent transactions and use tax.

(3) Funds allocated by the California Transportation Commission for exclusive public mass transit guideway construction pursuant to Article XIX of the California Constitution and funds for that construction allocated by the California Transportation Commission from the Transportation Planning and Development Account in the State Transportation Fund. However, the funds allocated by the California Transportation Commission shall not be available for deposit in the trust fund specified in subdivision (c).

SEC. 2. Section 130265 is added to the Public Utilities Code, to read:

130265. In 1990, the Los Angeles County Transportation Commission adopted an approved San Fernando Valley rail rapid transit route and plan as described in the Findings and Mitigation Monitoring Program adopted by the Los Angeles County Transportation Commission on February 28, 1990, as an extension of metro rail or advanced technology transit, other than light rail, that is a deep bore subway through residential areas, unless modified through a subsequent state or federal environmental review process. Therefore, the following apply within the right-of-way of the Burbank Branch line of the Southern Pacific Railroad:

(a) In the area between the western curb of Hazeltine Avenue and a line parallel to and 50 feet west of the western edge of the Hollywood freeway, there shall not be constructed any exclusive public mass transit rail guideway, rail rapid transit or light rail system, or other track, other than as a subway system which is covered and below grade.

(b) In the area described in subdivision (c), no station shall be constructed, other than a station where the main entrance is located on property which is currently part of the Los Angeles Valley College campus or on that portion of the existing railroad right-of-way located north of Burbank Boulevard and east of Fulton Avenue.

(c) In the area below Tujunga Wash and at least one mile to the east and west of Tujunga Wash, there shall not be constructed any exclusive public mass transit guideway, rail rapid transit or light rail system, or other track, other than as a subway using boring technology as a deep bore subway located at least 25 feet below ground, measured from the existing ground level to the top of the tunnel.

(d) This section is not intended to mandate the selection by the Los Angeles County Transportation Commission of any transit route or the construction of any route configuration or alignment, or to prevent consideration by that commission of any monorail or other advanced technology option on any alternative route, but this section is intended solely to define statutorily the route configuration and alignment limitations adopted locally by the Los Angeles County Transportation Commission on February 28, 1990.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. 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 to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission shall come from funds allocated to either entity by the California Transportation Commission for transportation purposes.

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 73

An act to add Section 425.8 to the Government Code, relating to the state historic artifact.

[Approved by Governor June 24, 1991. Filed with Secretary of State June 25, 1991.]

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

SECTION 1. Section 425.8 is added to the Government Code, to read:

425.8. The Chipped Stone Bear (bear-shaped eccentric) is the official state prehistoric artifact.

CHAPTER 74

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 1990, relating to contingencies or emergencies, to take effect immediately, usual current expenses.

[Approved by Governor June 27, 1991. Filed with Secretary of State June 27, 1991.]

I am reducing the non-Proposition 98 General Fund appropriation contained in Section 1 (a) (1) of Assembly Bill No. 217 by a net amount of $3,162,000 because of more recent estimates of need.

Reductions can be made for the following three programs:

According to recent calculations, the deficiency for utilization of Medi-Cal benefits is lower than originally estimated by $3,777,000

The Regional Center deficiency can be reduced by $1,100,000. Federal Funds were received in the current year to offset this amount

The deficiency of $390,000 for operation of the Drought Information Center which the Department of Water Resources indicates is no longer necessary.

I have offset a portion of the above reductions by the following increased needs:

An additional $1,646,000 is needed for state operations costs attributable to Medi-Cal.

An additional $459,000 is needed for funding the Workers' Compensation Benefit Program.

With these net reductions of $3,162,000, I approve Assembly Bill No. 217.

PETE WILSON, Governor

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

SECTION 1. (a) The sum of one hundred forty-three million two hundred fourteen thousand dollars ($143,214,000) is hereby appropriated for expenditure in the 1990–91 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 1990, in accordance with the following schedule:

(1) One hundred thirty-three million ninety-five thousand dollars ($133,095,000) for purposes not related to Proposition 98 and two hundred eighteen thousand dollars ($218,000) for Proposition 98 purposes, from the General Fund to the Reserve for Contingencies or Emergencies in Item 9840-001-001.

(2) Nine million four hundred twenty-six thousand dollars ($9,426,000) from unallocated special funds to the Reserve for Contingencies or Emergencies in Item 9840-001-494.

(3) Four hundred seventy-five thousand dollars ($475,000) 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. 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 75

An act to amend Section 97 of the Revenue and Taxation Code, relating to school finance.

[Approved by Governor June 27, 1991. Filed with Secretary of State June 27, 1991.]

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

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

97. Except as otherwise provided in 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 Office of Management and Budget 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 subdivision.

(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) If so directed by the board of supervisors, the auditor shall determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to local jurisdictions other than the county or city and county, cities, school districts, community college districts, and county offices of education, by adding the property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget 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, cities, school districts, community college districts, and county offices of education, 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 shall, commencing in fiscal year 1990–91, if so directed by the board of supervisors, submit an invoice to these jurisdictions for services rendered in the prior fiscal year.

SEC. 2. Notwithstanding Item 6110-101-001 of Section 2.00 of the Budget Act of 1990, as set forth in Chapter 467 of the Statutes of 1990, of the amount appropriated in that item, the sum of one hundred thirty-three million eight hundred thousand dollars ($133,800,000) shall apply to the state school funding obligation for the 1989–90 fiscal year, rather than for the 1990–91 fiscal year, as determined under subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 3. This bill shall become operative only if Senate Bill 1049 of the 1991–92 Regular Session is chaptered and becomes operative.

CHAPTER 76

An act to repeal Section 3 of Chapter 42 of the Statutes of 1991, relating to school funding, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor June 27, 1991. Filed with Secretary of State June 27, 1991.]

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

SECTION 1. Section 3 of Chapter 42 of the Statutes of 1991 is repealed.

SEC. 2. Notwithstanding Section 2.00 of Chapter 467 of the Statutes of 1990, of the unencumbered balance of the appropriation made under Schedule (a) of Item 6110-101-001 of that section, the sum of three hundred ninety-eight million dollars ($398,000,000) shall revert, as of the effective date of this act, to the unappropriated surplus of the General Fund.

SEC. 3. (a) The sum of three hundred ninety-eight million dollars ($398,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for apportionment to school districts as an emergency loan. That apportionment shall be distributed to school districts pursuant to Section 42238 of the Education Code in the same manner that funds are apportioned pursuant to Schedule (a) of Item 6110-101-001 of Section 2.00 of the Budget Act of 1990, as set forth in Chapter 467 of the Statutes of 1990.

(b) No interest payment shall be required with regard to the loan authorized under subdivision (a). The repayment of that loan shall be governed by statutory provision that expressly addresses that loan.

(c) The moneys appropriated for loan purposes under subdivision (a) shall not be deemed, for any fiscal year, to be either "General Fund revenues appropriated for school districts" or any part of "total allocations to school districts" for purposes of Section 8 of Article XVI of the California Constitution.

SEC. 4. The sum of eighteen billion four hundred twenty-three million dollars ($18,423,000,000) is hereby appropriated from the General Fund for the 1991–92 fiscal year for the support of school districts, as defined in Section 41302.5 of the Education Code, and community college districts, to be apportioned as follows:

(a) (1) The sum of one billion two hundred thirty-three million dollars ($1,233,000,000) is appropriated under this section for transfer to Section A of the State School Fund for apportionment to school districts for the 1991–92 fiscal year pursuant to Section 42238 of the Education Code.

(2) The sum appropriated pursuant to paragraph (1) shall be reduced by the amount of one billion two hundred thirty-three million dollars ($1,233,000,000) in discharge of emergency loans made to school districts from the General Fund, pursuant to the

following schedule:

(A) The sum of eight hundred thirty-five million dollars ($835,000,000) in discharge of the emergency loan made pursuant to Section 2 of Chapter 42 of the Statutes of 1991.

(B) The sum of three hundred ninety-eight million dollars ($398,000,000) in discharge of the emergency loan made to school districts pursuant to Section 3 of this act.

(b) The sum of seventeen billion one hundred ninety million dollars ($17,190,000,000) is appropriated under this section as a contingency expenditure reserved for subsequent appropriation by the Legislature for deficiencies and other educational purposes in program areas that are funded pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution. No amount shall be appropriated from this subdivision that would cause the state to exceed the minimum funding level for school districts and community college districts required by that constitutional provision.

SEC. 5. It is the intent of the Legislature and the Governor to make every effort to generate at least $298,000,000 in additional cost savings for local education agencies. It is further the intent of the Legislature, if funds are made available to school districts, county offices of education, and community college districts as a result of cost savings in any manner, other than the savings resulting from the enactment of Section 1 of Senate Bill 188 of the 1991–92 Regular Session, that these funds be allocated on the basis of average daily attendance, or other uniform basis, to these local education agencies by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges in a manner prescribed by a subsequently enacted statute.

SEC. 6. Notwithstanding Section 41203.1 of the Education Code, the calculations of relative funding entitlements for the 1990–91 and 1991–92 fiscal years provided for under that section shall be performed as if Sections 2 to 4, inclusive, of this act had not been enacted.

SEC. 7. This bill shall become operative only if Senate Bill 188 of the 1991–92 Regular Session is chaptered, except that Section 4 shall not become operative until July 1, 1991.

SEC. 8. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the California Constitution and shall go into immediate effect.

CHAPTER 77

An act relating to school districts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 29, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. (a) The Legislature finds and declares that certain state funding is appropriated in the Budget Act of 1990 to meet the fiscal needs of qualifying high school districts that have experienced temporary declines in pupil enrollment, subject to the condition that the "feeder" elementary school districts for those high school districts have had increasing pupil enrollments in specified fiscal years.

(b) Pursuant to the intent of the Legislature that no school district suffer undue financial penalty as a result of the October 17, 1989, Loma-Prieta earthquake, it is the purpose of this act to ensure that eligibility for the state funding described in subdivision (a) not be denied due to a decline in pupil enrollment in a feeder elementary school district resulting from that earthquake.

SEC. 2. Notwithstanding any other provision of law, for purposes of determining the eligibility of any high school district for state funding pursuant to Provision 23 of Item 6110-101-001 of Section 2.00 of the Budget Act of 1990, a feeder elementary school district shall be deemed to have had increasing pupil enrollment, as determined pursuant to Chapter 1540 of the Statutes of 1990, for any fiscal year for which either of the following conditions is satisfied:

(a) The elementary school district had an actual increase in pupil enrollment.

(b) The elementary school district was anticipated to have an increase in pupil enrollment, as indicated by an enrollment projection approved for that district by the Office of Local Assistance of the Department of General Services pursuant to Article 3 (commencing with Section 17740) of Chapter 22 of Part 10 of the Education Code, but, as a result of the October 17, 1989, Loma-Prieta earthquake, did not experience an increase.

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

In order to ensure the entitlement of a qualifying high school district to certain state funding to be apportioned for the 1990–91 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 78

An act to amend Section 33670.8 of the Health and Safety Code, and to amend Section 9 of Chapter 26 of the 1989–90 First Extraordinary Session, relating to redevelopment.

[Approved by Governor June 29, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 33670.8 of the Health and Safety Code is amended to read:

33670.8. (a) With respect to the allocation of taxes pursuant to Section 33670 in redevelopment project areas within the incorporated City of Santa Cruz, which were already approved on October 17, 1989, the otherwise applicable provisions of this part shall be modified as specified in this subdivision.

For the purpose of determining the portion of taxes to be paid annually to the Redevelopment Agency of the City of Santa Cruz pursuant to Sections 33328, 33670, and 33675 for any redevelopment project which was approved on or before October 17, 1989, "assessment roll ... last equalized" and "base-year assessment roll" mean the last equalized assessment roll determined pursuant to subdivision (a) of Section 33670 reduced by the same amount as the amount of reduction in the current assessment roll determined pursuant to Section 170 of the Revenue and Taxation Code.

(b) With respect to the allocation of taxes pursuant to Section 33670 in redevelopment project areas within the incorporated City of Watsonville, which were already approved on October 17, 1989, the otherwise applicable provisions of this part shall be modified as specified in this subdivision.

For the purpose of determining the portion of taxes to be paid annually to the Redevelopment Agency of the City of Watsonville pursuant to Sections 33328, 33670, and 33675 for any redevelopment project which was approved on or before October 17, 1989, "assessment roll ... last equalized" and "base-year assessment roll" mean the last equalized assessment roll determined pursuant to subdivision (a) of Section 33670 reduced by the same amount as the amount of reduction in the current assessment roll determined pursuant to Section 170 of the Revenue and Taxation Code.

(c) In claiming an allocation of taxes pursuant to Section 33675, as adjusted pursuant to subdivision (b), the redevelopment agency of the City of Watsonville shall consider the economic impact of the allocation on other agencies which have sustained substantial disaster damage and shall negotiate and enter into an agreement with the County of Santa Cruz to avoid further economic hardship.

(d) Within 30 days after receipt of a notice from the Assessor of the County of Santa Cruz establishing the adjustment in the

assessment roll pursuant to subdivision (b), the Redevelopment Agency of the City of Watsonville may elect not to be subject to this section by giving written notice of its decision to the County of Santa Cruz. Notwithstanding an election by the Redevelopment Agency of the City of Watsonville not to be subject to this section pursuant to this subdivision, it shall still reimburse the County of Santa Cruz for its cost of revising the property tax assessment rolls and allocations.

(e) Subdivisions (a) and (b) shall apply to allocation of taxes levied on the 1990 and subsequent equalized assessment rolls, upon the request of the redevelopment agencies of the Cities of Santa Cruz and Watsonville, and those agencies shall reimburse the County of Santa Cruz for its cost of revising the property tax assessment rolls and allocations.

(f) (1) The county auditor shall certify to the director of finance of each city which includes a redevelopment project subject to this section when the total sum of the assessed value of the taxable property in each redevelopment project subject to this section as shown upon each current year's equalized assessment roll becomes equal to the total sum of the assessed value of the taxable property in each redevelopment project as shown upon the assessment roll last equalized before October 17, 1989, adjusted by the change in the Consumer Price Index for the San Francisco/Oakland Metropolitan Area between 1989 and the date of the certification pursuant to this subdivision. On the July 1 following the date of certification and each July 1 thereafter, the county auditor shall increase the total sum of the assessed value of the taxable property in each redevelopment project as shown upon the assessment roll adjusted pursuant to subdivision (a) or (b) by 10 percent of the difference between the total sum of the assessed value of the taxable property in each redevelopment project determined pursuant to subdivision (a) of Section 33670 and the total sum of the assessed value of the taxable property in each redevelopment project as adjusted pursuant to subdivision (a) or (b), until the two total assessed values are equal, and shall report this adjusted value to the other county officials charged with the responsibility of allocating taxes pursuant to Sections 33670 and 33675, who shall use this assessed value in determining the portion of taxes to be paid annually to the redevelopment agency subject to this section.

(2) For purposes of this subdivision only, in the event that any redevelopment project area within the incorporated area of the City of Santa Cruz already approved on October 17, 1989, is amended to add territory to the project area, the assessed value of taxable property in the territory added shall be computed separately and the county assessor shall not take the assessed value into account in determining when the total sum of the assessed value of the taxable property in the redevelopment project becomes equal to the total sum of the assessed value of the taxable property as shown on the assessment roll last equalized prior to October 17, 1989, as adjusted pursuant to this subdivision.

(g) With respect to an area added to a redevelopment project by the City of Santa Cruz or the City of Watsonville pursuant to Sections 33458.5 and 33477, the terms "assessment roll" and "last equalized assessment roll" as used in Section 33670 shall mean and refer to the assessment roll as reduced in accordance with the provisions of subdivision (b) of Section 170 of the Revenue and Taxation Code.

SEC. 2. Section 9 of Chapter 26 of the 1989–90 First Extraordinary Session is amended to read:

Sec. 9. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not be applicable to the redevelopment plans for disaster-related projects adopted, amended, or merged by the City of Santa Cruz or the City of Watsonville pursuant to Sections 33458.5 and 33477 of the Health and Safety Code and the redevelopment plan adopted by the City of Oakland pursuant to Section 33670.9 of the Health and Safety Code.

SEC. 3. The Legislature finds and declares that, due to the extensive damage caused to the Cities of Santa Cruz and Watsonville by the Loma Prieta earthquake of October 17, 1989, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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 79

An act relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 29, 1991 Filed with Secretary of State June 30, 1991.]

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

SECTION 1. The sum of four hundred thirty thousand dollars ($430,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund for the 1990–91 fiscal year to the Trustees of the California State University and the California State University for the renovation and remodeling of the administration building at California State University, San Francisco.

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 funding as soon as possible for the renovation and remodeling of a portion of the administration building on the campus of the California State University, San Francisco, that was recently destroyed by fire, it is necessary for this act to take effect immediately.

CHAPTER 80

An act to amend Sections 8030, 8031, 8032, 8033, 8033.5, 8034, 8035, 8036, 8037, 8038, and 8039 of, and to add Sections 7850.5 and 8038.5 to, the Fish and Game Code, relating to licenses, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 7850.5 is added to the Fish and Game Code, to read:

7850.5. Section 7850 does not apply to any person who is employed by the fish receiver to unload fish or fish products, or to load or unload food and supplies, on or from a commercial fishing boat at a dock.

SEC. 2. Section 8030 of the Fish and Game Code, as amended by Section 17 of Chapter 1703 of the Statutes of 1990, is amended to read:

8030. (a) Any person who engages in any business for profit involving fish or aquaculture products shall be licensed pursuant to this article, except as follows:

(1) A commercial fisherman who sells fish only to persons licensed under this article to purchase or receive fish from commercial fishermen and who does not engage in any activity described in Section 8034, 8035, or 8036 unless licensed to engage in both activities.

(2) A person who only takes, transports, or sells live fish for bait.

(3) A person who sells fish or aquaculture products only at retail to the ultimate consumer if that person does not conduct any activities described in Section 8033, 8034, or 8035.

(4) A person required to be registered pursuant to Division 12 (commencing with Section 15000) and who deals only in his or her own aquaculture products; and any person who receives only live fish or products for aquaculture purposes or for recreational fishing.

(5) A person who deals only with live products not utilized for human consumption but solely for pet industry or hobby purposes.

(6) A person who is employed by the fish receiver to unload fish

or fish products from a commercial fishing boat at a dock.

(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. 3. Section 8030 of the Fish and Game Code, as added by Section 18 of Chapter 1703 of the Statutes of 1990, is amended to read:

8030. (a) Any person who engages in any business for profit involving fish shall be licensed pursuant to this article, except as follows:

(1) A commercial fisherman who sells fish only to persons licensed under this article to purchase or receive fish from commercial fishermen and who does not engage in any activity described in Section 8034, 8035, or 8036 unless licensed to engage in both activities.

(2) A person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait.

(3) A person who sells fish only at retail to the ultimate consumer if that person does not conduct any activities described in Section 8033, 8035, or 8036.

(4) Pursuant to Division 12 (commencing with Section 15000), a person who deals only in products of aquaculture.

(5) A person who is employed by the fish receiver to unload fish or fish products from a commercial fishing boat at a dock.

(b) This section shall become operative on January 1, 1993.

SEC. 3.1. Section 8031 of the Fish and Game Code, as amended by Section 19 of Chapter 1703 of the Statutes of 1990, is amended to read:

8031. (a) The following definitions govern the construction of this article:

(1) "Process fish" means any activity for profit of preserving or preparing fish or aquaculture products for sale or delivery to other than the ultimate consumer, including, but not limited to, cleaning, cutting, gutting, scaling, shucking, peeling, cooking, curing, salting, canning, breading, packaging, or packing fish. "Process fish" also means the activity for profit of manufacturing fish scraps, fish meal, fish oil, or fertilizer made from fish. "Process fish" does not include the cleaning, beheading, gutting, or chilling of fish by a licensed commercial fisherman which is required to preserve the fish while aboard a fishing vessel and which is to prevent deterioration, spoilage, or waste of the fish before they are landed and delivered to a person licensed to purchase or receive fish from a commercial fisherman.

(2) "Wholesale" means the purchase of fish or aquaculture products from primary fish receivers, processors, or any other wholesaler for the purpose of resale to other than the ultimate consumer.

(3) "Import" means receiving or purchasing fish taken outside of this state which are not landed in this state by a licensed commercial fisherman or receiving or purchasing aquaculture products from outside of this state.

(4) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(5) "Fresh or fresh frozen fish and aquaculture products" means wild fish and products of aquaculture that are not canned, cooked, cured, salted, dried, or breaded.

(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. 3.2. Section 8031 of the Fish and Game Code, as added by Section 20 of Chapter 1703 of the Statutes of 1990, is amended to read:

8031. (a) The following definitions govern the construction of this article:

(1) "Process fish" means any activity for profit of preserving or preparing fish for sale or delivery to other than the ultimate consumer, including, but not limited to, cleaning, cutting, gutting, scaling, shucking, peeling, cooking, curing, salting, canning, breading, packaging, or packing fish. "Process fish" also means the activity for profit of manufacturing fish scraps, fish meal, fish oil, or fertilizer made from fish. "Process fish" does not include the cleaning, beheading, gutting, or chilling of fish by a licensed commercial fisherman which is required to preserve the fish while aboard a fishing vessel and which is to prevent deterioration, spoilage, or waste of the fish before they are landed and delivered to a person licensed to purchase or receive fish from a commercial fisherman.

(2) "Wholesale" means the purchase of fish from persons licensed to purchase or receive fish from a commercial fisherman, processors, importers, or any other wholesaler for the purpose of resale to other than the ultimate consumer.

(3) "Import" means receiving or purchasing fish taken outside of this state which are not landed in this state by a licensed commercial fisherman.

(4) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) This section shall become operative on January 1, 1993.

SEC. 3.3. Section 8032 of the Fish and Game Code, as amended by Section 21 of Chapter 1703 of the Statutes of 1990, is amended to read:

8032. (a) Commercial fish business specialty licenses shall be issued in four classes, as follows:

(1) Primary fish receiver's license, issued to any person engaged in the business of receiving fish or aquaculture products as provided in Section 8033.

(2) Fish processor's license, issued to any person engaged in the business of processing fish or aquaculture products as provided in Section 8034.

(3) Fish wholesaler's license, issued to any person who is engaged

in the business of wholesaling fish or aquaculture products as provided in Section 8035.

(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. 3.4. Section 8032 of the Fish and Game Code, as added by Section 22 of Chapter 1703 of the Statutes of 1990, is amended to read:

8032. (a) A commercial fish business license shall be issued which authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The annual fee for this license is seven hundred fifty dollars ($750).

(b) Specialty licenses for part of, but not all, activities described in subdivision (a) shall be issued in four classes, as follows:

(1) Fish receivers license, issued to any person engaged in the business of receiving fish as provided in Section 8033.

(2) Fish processors license, issued to any person engaged in the business of processing fish as provided in Section 8034.

(3) Fish wholesalers license, issued to any person who is engaged in the business of wholesaling fish as provided in Section 8035.

(4) Fish importers license, issued to any person who is engaged in the business of importing fish as provided in Section 8036.

(c) This section shall become operative on January 1, 1993.

SEC. 4. Section 8033 of the Fish and Game Code, as amended by Section 23 of Chapter 1703 of the Statutes of 1990, is amended to read:

8033. (a) Except as provided in Section 8033.5 or subdivision (c) of Section 8047, any person who purchases or receives fish for commercial purposes from a fisherman who is required to be licensed under Section 7850, or any person who removes fish from the point of the first landing that that person has caught for his or her own processing or sale, shall obtain a primary fish receiver's license.

(b) Any person who purchases or receives aquaculture products for resale from a person required to be registered pursuant to Division 12 (commencing with Section 15000) shall obtain a primary fish receiver's license. In lieu thereof, any person who is required to be registered pursuant to Division 12 (commencing with Section 15000) who sells or delivers his or her aquaculture products to a person who is not licensed as a primary fish receiver shall obtain a primary fish receiver's license.

(c) Any person who purchases or receives fresh or fresh frozen fish, including aquaculture products, which are taken or raised outside of this state and brought into this state by a person who is not a licensed commercial fisherman who is operating as a commercial fisherman, for the purpose of resale shall obtain a primary fish receiver's license.

(d) The base fee for the primary fish receiver's license shall be determined by the combined weight of the following:

(1) All fish purchased or received during the preceding 12 months from persons required to be licensed under Section 7850.

(2) All aquaculture products purchased or received during the preceding 12 months from persons who are required to be registered pursuant to Division 12 (commencing with Section 15000).

(3) All fresh or frozen fish and aquaculture products imported during the preceding 12 months.

(e) The base fee for the primary fish receiver's license is the amount in the following schedule:

Combined Weights	Fees
1 to 24,999 pounds	$200
25,000 to 99,999 pounds	$500
100,000 to 199,999 pounds	$1,500
200,000 or more pounds	$2,500

(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. 4.1. Section 8033.5 of the Fish and Game Code, as amended by Section 25 of Chapter 1703 of the Statutes of 1990, is amended to read:

8033.5. (a) Any commercial fisherman who sells fish that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license. The annual fee for a fisherman's retail license is fifty dollars ($50).

(b) Any person required to obtain a license under this section who engages in any activity described in Section 8033, 8034, or 8035 shall also obtain an appropriate license to engage in those activities.

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

SEC. 4.2. Section 8033.5 of the Fish and Game Code, as added by Section 26 of Chapter 1703 of the Statutes of 1990, is amended to read:

8033.5. (a) Any commercial fisherman who sells fish that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license. The annual fee for a fisherman's retail license is twenty-five dollars ($25).

(b) Any person required to obtain a license under this section who engages in any activity described in Section 8033, 8034, 8035, or 8036 shall also obtain an appropriate license to engage in those activities.

(c) This section shall become operative on January 1, 1993.

SEC. 4.3. Section 8034 of the Fish and Game Code, as amended by Section 27 of Chapter 1703 of the Statutes of 1990, is amended to read:

8034. (a) Other than a person who is exempt pursuant to Section 8030, any person who processes fish or aquaculture products for profit shall obtain a fish processor's license. The annual fee for a fish processor's license is five hundred dollars ($500).

(b) Any person required to obtain a license under this section who takes his or her own fish shall also obtain a primary fish receiver's

license.

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

SEC. 4.4. Section 8034 of the Fish and Game Code, as added by Section 28 of Chapter 1703 of the Statutes of 1990, is amended to read:

8034. (a) Any person who processes fish for profit shall obtain a fish processor's license. The annual fee for a fish processor's license is three hundred dollars ($300).

(b) Any person required to obtain a license under this section who takes his or her own fish shall also obtain a fish receiver's license or a commercial fish business license.

(c) This section shall become operative on January 1, 1993.

SEC. 4.5. Section 8035 of the Fish and Game Code, as amended by Section 29 of Chapter 1703 of the Statutes of 1990, is amended to read:

8035. (a) Other than a person exempt under Section 8030, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish or aquaculture products from another person, who is required to be licensed as a primary fish receiver, fish processor, or fish wholesaler under this article, shall obtain a fish wholesaler's license. The annual fee for a fish wholesaler's license is five hundred dollars ($500).

(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. 4.6. Section 8035 of the Fish and Game Code, as added by Section 30 of Chapter 1703 of the Statutes of 1990, is amended to read:

8035. (a) Excepting a person exempt under Section 8030 or an importer licensed under Section 8036, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as a fish receiver, fish processor, fish importer, or fish wholesaler under this article, shall obtain a fish wholesaler's license. The annual fee for a fish wholesaler's license is two hundred dollars ($200).

(b) This section shall become operative on January 1, 1993.

SEC. 4.7. Section 8036 of the Fish and Game Code is amended to read:

8036. (a) Any person who purchases or receives fish, which are taken outside of this state and brought into this state by a person who is not a licensed commercial fisherman, for the purpose of resale to other than the ultimate consumer shall obtain a fish importer's license. The annual fee for a fish importer's license is three hundred dollars ($300).

(b) This section shall become operative on January 1, 1993.

SEC. 4.8. Section 8037 of the Fish and Game Code, as amended by Section 33 of Chapter 1703 of the Statutes of 1990, is amended to read:

8037. (a) A person who engages in business involving fish or

aquaculture products which business activity would require more than one class of license under this article, shall obtain each of the specialty licenses required for the classes of activities engaged in. Each plant, facility, or other place of business in which an activity occurs that is required to be licensed shall have a copy of the required license.

(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. 4.9. Section 8037 of the Fish and Game Code, as added by Section 34 of Chapter 1703 of the Statutes of 1990, is amended to read:

8037. (a) A person who engages in business involving fish which business activity would require more than one class of license under this article shall obtain either a commercial fish business license issued under subdivision (a) of Section 8032 or each of the specialty licenses which are required for the classes of activities engaged in. Each plant, facility, or other place of business in which an activity occurs that is required to be licensed shall have a copy of the required license.

(b) This section shall become operative on January 1, 1993.

SEC. 5. Section 8038 of the Fish and Game Code, as amended by Section 35 of Chapter 1703 of the Statutes of 1990, is amended to read:

8038. (a) A license issued under this article is valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) An application for a license issued pursuant to Section 8033, 8033.5, 8034, or 8035 for the next, subsequent year may be accepted from an existing licensee by the department on or after October 31 of the license year preceding the license year for which the application is made.

(c) Any person who desires to engage, or to continue engaging, in any business that is required to be licensed pursuant to this article and who is the holder of a valid, unrevoked license that was issued under former subdivision (a) of Section 8032, Section 8033, 8034, 8035, or 8036, as those provisions read on December 31, 1990, shall obtain the applicable licenses and pay the fee required by this article before February 1, 1991, and that licensee shall receive a credit for the fees paid for those former licenses for licenses issued under this article for the 1990–91 license year. The amount of the credit issued shall not exceed the fees for the replacement licenses. No credit shall be allowed for any fee required by this article that is paid on or after February 1, 1991.

(d) Any person who is not the holder of a valid, unrevoked license as described in subdivision (c), and who desires to engage, or to continue engaging, in any business which is required to be licensed pursuant to this article shall obtain the applicable license and pay the amount of the annual fees specified in this article.

(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. 6. Section 8038 of the Fish and Game Code, as added by Section 36 of Chapter 1703 of the Statutes of 1990, is amended to read:

8038. (a) A license issued under this article is valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) An application for a license for the next, subsequent year may be accepted from an existing licensee by the department on or after October 31 of the license year preceding the license year for which the application is made.

(c) This section shall become operative on January 1, 1993.

SEC. 7. Section 8038.5 is added to the Fish and Game Code, to read:

8038.5. (a) Licenses obtained pursuant to Section 8038, as amended by Section 35 of Chapter 1703 of the Statutes of 1990, shall remain in effect through December 31, 1991.

(b) A person who obtained a license pursuant to Section 8038, as amended by Section 35 of Chapter 1703 of the Statutes of 1990, and who received a credit for previously paid license fees, shall pay a license surcharge at the time of obtaining a commercial fish business license for the license year starting on January 1, 1992. The surcharge shall be equal to one-half of the credit received pursuant to subdivision (c) of Section 8038, as amended by Section 35 of Chapter 1703 of the Statutes of 1990.

(c) Any person who purchased a commercial fish business license for 1991 and received a credit pursuant to subdivision (c) of Section 8038, as amended by Section 35 of Chapter 1703 of the Statutes of 1990, who does not obtain a commercial fish business license for the license year starting January 1, 1992, shall pay the department an amount equivalent to the surcharge that would otherwise have been paid pursuant to subdivision (b).

SEC. 8. Section 8039 of the Fish and Game Code is amended to read:

8039. (a) The department may enter into contracts for the purpose of producing and printing commercial fishing license stamps, license application forms, and fish privilege tax forms without complying with Sections 10301, 10339, and 10340 of the Public Contract Code.

(b) This section shall remain in effect only until July 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1992, deletes or extends that date.

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.

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 clarify the application of certain licensing requirements to persons who unload fish and fish products, and in order that the intent of the Legislature with respect to the restructuring and increasing of commercial fish business licenses, as enacted by Chapter 1703 of the Statutes of 1990, can be implemented correctly, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 81

An act to amend Sections 5003, 5005.1, 5008, 5010, and 5012 of the Insurance Code, relating to earthquake insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991 Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 5003 of the Insurance Code is amended to read:

5003. (a) Every insured shall at the time of paying the premium for the policy of residential property insurance on property located within the state, pay the earthquake surcharge established by the commissioner. Every insurer shall, at the time of collecting such premium, collect this surcharge.

(b) Every insurer shall, at the time of collecting the premium for the policy of residential property insurance on property located within the state, collect, along with the earthquake surcharge, an appropriate fee to recover the cost of the insurers', agents', and brokers' administrative expenses for collecting the surcharge. The fee for the costs shall be filed with the commissioner, and shall be deemed approved unless it is disapproved within 30 days of submission. In the first year of the program, in no event shall the fee exceed one dollar ($1). On January 1, 1993, an insurer may submit to the commissioner a request for approval of a fee to recover the insurer's administrative costs. The fee that may be charged after the first year shall not be subject to the one dollar ($1) limit but in no event shall exceed the cost of the insurer's administrative expenses.

(c) The surcharge shall be transmitted to the Treasurer within 30 days of the end of the quarter within which the surcharge was collected. These surcharges shall be held in a segregated,

interest-bearing account on behalf of the fund with all the accrued interest being remitted to the fund on a quarterly basis, but in no event more than 30 days after the end of the quarter. The Treasurer shall deposit the remitted funds into the fund. The insurer shall transmit to the commissioner the name of the person from whom the surcharge is collected, the names of the insureds who have failed to pay, and other relevant information required by the commissioner. The insurer shall retain the fee collected under subdivision (b) for its administration.

(d) Every residence for which the surcharge is collected shall be provided payments as provided by this chapter in the event of earthquake damage to the residence.

(e) An insurer's obligations under an insurance contract shall not be limited or abrogated by an insured's failure to pay the surcharge.

SEC. 2. Section 5005.1 of the Insurance Code is amended to read:

5005.1. Notwithstanding Section 5005, the dollar amount limitation on maximum payments from the fund shall be increased, subject to the conditions set forth below, as follows:

(a) If, after January 1, 1995, the fund contains at least seven hundred fifty million dollars ($750,000,000), the limitation shall be increased by four thousand dollars ($4,000) over the amount which is in effect at that time.

(b) If, after January 1, 1997, the fund contains at least one billion two hundred fifty million dollars ($1,250,000,000), the limitation shall be increased by an additional five thousand dollars ($5,000) over the amount which is in effect at that time.

SEC. 3. Section 5008 of the Insurance Code is amended to read:

5008. (a) This chapter shall apply to every policy of residential property insurance issued or renewed on or after January 1, 1992, insuring residential property in the state, for losses arising from earthquakes occurring on or after January 1, 1992.

(b) Notwithstanding subdivision (a), payments shall be provided by the fund to owners of residential property located in the state if the residential insurance policy was in effect on January 1, 1992, and the next time for collection of premiums within the meaning of subdivision (a) of Section 5003 has not occurred.

(c) The surcharge and fee imposed by this chapter shall not be subject to the gross premiums tax and are not premiums for any other purpose, including the payment of commissions.

SEC. 4. Section 5010 of the Insurance Code is amended to read:

5010. The commissioner shall adopt regulations to implement this chapter no later than September 1, 1991. The regulations shall include, at the minimum, procedures for adjustment of claims and for appeal of the determination of the claim adjustment process. The regulations 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, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of

Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 5. Section 5012 of the Insurance Code is amended to read:

5012. (a) The department shall study availability, cost and adequacy of commercial insurance in covering property and business interruption losses encountered by small business due to earthquake. The purpose and scope of the study shall include, but not be limited, to the following:

(1) The total extent of structural damage, inventory loss, business interruption, and relocation costs that might be expected to result due to quakes of various magnitudes and mitigation measures to reduce losses.

(2) The premium, deductibles, and exclusions contained in commercial policies currently offered to insure against earthquake perils and the availability, affordability, and adequacy of those policies.

(3) Options for establishing and equitably funding a small business earthquake fund, similar to the Residential Earthquake Recovery Fund established by this chapter, to provide payments, particularly for business interruption, to small businesses which now find commercial coverage unavailable, unaffordable, or inadequate.

(b) In preparing, and conducting the study the department shall consult with the respective Chairpersons of the Assembly Finance and Insurance Committee, the Senate Insurance, Claims and Corporations Committee, and the Assembly Earthquake Preparedness and Natural Disasters Committee prior to commencing the study and thereafter at least quarterly until the final report is submitted to the Legislature. The Franchise Tax Board shall provide information necessary to determine the size and type of businesses which should participate in a small business earthquake fund and data relating to establishing contributions to the fund from those businesses. The department shall also consult with the State Seismic Safety Commission, the Office of Emergency Services, Employment Development Department and other groups, individuals, and agencies as needed. The department is also authorized to retain outside assistance in conducting the study.

(c) A report on the study shall be submitted to the Governor and Legislature on or before January 1, 1992.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the California Residential Earthquake Recovery Act to be implemented in an orderly manner it is necessary for this act to take effect immediately.

CHAPTER 82

An act to repeal Sections 1513.1, 1517, 1821, 1822, 1827.5, 1831, 1851, 1851.5, and 1875 of the Probate Code enacted by Chapter 281 of the Statutes of 1931, to amend Sections 20, 1203, 1513.1, 1821, 1822, 1827.5, 1851, 1851.5, 1875, 2629, 6247, 7622, 7662, 8907, 9050, 10589, 10800, 10801, and 11623 of, to add Sections 1517 and 1831 to, to repeal and add Article 2 (commencing with Section 10810) of Chapter 1 of Part 7 of Division 7 of, to repeal Section 900 of, and to repeal the heading of Chapter 2.5 of Part 5 of Division 7 of, the Probate Code enacted by Chapter 79 of the Statutes of 1990, relating to probate law and procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991]

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

SECTION 1. Section 20 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

20. Unless the provision or context otherwise requires, the definitions in this part govern the construction of this code.

SEC. 2. Section 900 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, as amended by Section 3.5 of Chapter 710 of the Statutes of 1990, is repealed.

SEC. 2.5. Section 1203 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1203. (a) Subject to subdivision (b), unless the particular provision governing the notice of hearing provides that the time for giving notice may not be shortened, the court may, for good cause, shorten the time for giving a notice of hearing.

(b) Unless the particular provision governing the publication of notice of hearing otherwise provides, the court may not shorten the time for publication of notice of hearing.

SEC. 3. Section 1513.1 of the Probate Code, as amended by Chapter 1208 of the Statutes of 1990, is repealed.

SEC. 4. Section 1513.1 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1513.1. (a) Except as provided in Section 6102 of the Government Code, each county shall annually assess (1) the parent, parents, or other person charged with the support and maintenance of the proposed ward, and (2) the guardian, proposed guardian, or the estate of the proposed ward, for county expenses for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator incurred pursuant to Section 1513. A county may waive any or all of an assessment against the guardianship on the basis of hardship.

(b) Any amount chargeable as state-mandated local costs

incurred by a county for the cost of the investigation or review pursuant to Section 1513 shall be reduced by any assessments actually collected pursuant to subdivision (a) during that fiscal year.

SEC. 5. Section 1517 of the Probate Code, as added by Chapter 1530 of the Statutes of 1990, is repealed.

SEC. 6. Section 1517 is added to the Probate Code enacted by Chapter 79 of the Statutes of 1990, to read:

1517. This part does not apply to guardianships resulting from the selection and implementation of a permanent plan pursuant to Section 366.25 or 366.26 of the Welfare and Institutions Code. For those minors, the applicable sections of the Welfare and Institutions Code and Division Ia (commencing with Rule 1400) of Title Four of the California Rules of Court specify the exclusive procedures for establishing, modifying, and terminating legal guardianships. If no specific provision of the Welfare and Institutions Code or the California Rules of Court is applicable, the provisions applicable to the administration of estates under Part 4 (commencing with Section 2100) govern so far as they are applicable to like situations.

SEC. 7. Section 1821 of the Probate Code, as amended by Chapter 1208 of the Statutes of 1990, is repealed.

SEC. 8. Section 1821 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and state the reasons why a conservatorship is necessary. Unless the petitioner is a bank or other entity authorized to conduct the business of a trust company, the petitioner shall also file supplemental information as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the categories set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner when he or she has knowledge of the facts or by the declarations or affidavits of

other persons having knowledge of those facts.

Where any of the categories set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the supplemental information to other persons if it would serve the interests of the conservatee. The county clerk shall make provision for limiting disclosure of the supplemental information exclusively to persons entitled thereto under this section.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse and of the relatives of the proposed conservatee within the second degree. If no spouse of the proposed conservatee, or relatives of the proposed conservatee within the second degree are known to the petitioner, the petition shall set forth, so far as they are known to the petitioner, the names and addresses of the following persons who, for the purposes of Section 1822, shall all be deemed to be relatives:

(1) A spouse of a predeceased parent of a proposed conservatee.

(2) The children of a predeceased spouse of a proposed conservatee.

(3) The siblings of the proposed conservatee's parents, if any, but if none, then the natural and adoptive children of the proposed conservatee's parents' siblings.

(4) The natural and adoptive children of the proposed conservatee's siblings.

(c) If the petition is filed by a person other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor, or the agent of a creditor or debtor, of the proposed conservatee.

(d) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner,

whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(f) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(g) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(h) In the case of an allegedly developmentally disabled adult the petition shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Article 7.5 (commencing with Section 416) of Part 1 of Division 1 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information which is required pursuant to this section.

SEC. 9. Section 1822 of the Probate Code, as amended by Chapter 1598 of the Statutes of 1990, is repealed.

SEC. 10. Section 1822 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition. The court may not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be mailed to the following persons:

(1) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 1461.5.

(e) If the proposed conservatee is a person with developmental disabilities, at least 30 days before the day of the hearing on the petition, the petitioner shall mail a notice of the hearing and a copy of the petition to the regional center identified in Section 1827.5.

SEC. 11. Section 1827.5 of the Probate Code, as amended by Section 4 of Chapter 1598 of the Statutes of 1990, is repealed.

SEC. 12. Section 1827.5 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1827.5. (a) In the case of any proceeding to establish a limited conservatorship for a person with developmental disabilities, within 30 days after the filing of a petition for limited conservatorship, a proposed limited conservatee, with his or her consent, shall be assessed at a regional center as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. The regional center shall submit a written report of its findings and recommendations to the court.

(b) In the case of any proceeding to establish a general conservatorship for a person with developmental disabilities, the regional center, with the consent of the proposed conservatee, may prepare an assessment as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. If an assessment is prepared, the regional center shall submit its findings and recommendations to the court.

(c) A report prepared under subdivision (a) or (b) shall include a description of the specific areas, nature, and degree of disability of the proposed conservatee or proposed limited conservatee. The findings and recommendations of the regional center are not binding upon the court. In a proceeding where the petitioner is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities or a spouse or employee of a provider, is not the natural parent of the proposed conservatee or proposed limited conservatee, and is not a public entity, the regional center shall include a recommendation in its report concerning the suitability of the petitioners to meet the needs of the proposed conservatee or proposed limited conservatee.

(d) At least five days before the hearing on the petition, the regional center shall mail a copy of the report referred to in subdivision (a) to all of the following:

(1) The proposed limited conservatee.

(2) The attorney, if any, for the proposed limited conservatee.

(3) If the petitioner is not the proposed limited conservatee, the attorney for the petitioner or the petitioner if the petitioner does not have an attorney.

(4) Such other persons as the court orders.

(e) The report referred to in subdivisions (a) and (b) shall be confidential and shall be made available only to parties listed in subdivision (d) unless the court, in its discretion, determines that the release of the report would serve the interests of the conservatee who is developmentally disabled. The county clerk shall make

provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

SEC. 13. Section 1831 of the Probate Code, as added by Chapter 1208 of the Statutes of 1990, is repealed.

SEC. 14. Section 1831 is added to the Probate Code enacted by Chapter 79 of the Statutes of 1990, to read:

1831. All conservators shall file a general plan with the court within 90 days of appointment detailing how the personal and financial needs of the conservatee will be met. A copy of the plan shall be provided to the court investigator, and notice of the filing of the general plan shall be given to those persons who have been given notice of the petition. The general plan may be reviewed by those persons who have been given notice of the petition and who request to review the general plan. The court may schedule a hearing on the general plan if the court determines that a hearing would serve the best interests of the conservatee or if objections to the plan are submitted to the court within 30 days after the mailing of the notice of filing.

SEC. 15. Section 1851 of the Probate Code, as amended by Chapter 1208 of the Statutes of 1990, is repealed.

SEC. 16. Section 1851 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1851. (a) When court review is required, the court investigator shall visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked.

(b) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court.

(c) In the case of a limited conservatee, the court investigator shall make a recommendation regarding the continuation or termination of the limited conservatorship.

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine whether the present conservator is acting in the best interests of the conservatee.

(e) The report required by this section shall be confidential and

shall be made available only to parties, persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The county clerk shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

SEC. 17. Section 1851.5 of the Probate Code, as amended by Chapter 1208 of the Statutes of 1990, is repealed.

SEC. 18. Section 1851.5 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1851.5. (a) Except as provided in Section 6102 of the Government Code, each county shall annually assess the estate of each conservatee in the county for any investigation or review conducted by a court investigator at county expense with respect to that person pursuant to Section 1826, 1850, or 1851. The court may order the estate to reimburse the county for the cost of the investigations required by statute, unless the court finds that the assessment would pose a hardship to the estate. A county may waive any or all of an assessment against an estate, on the basis of hardship, where the conservatorship of a living person is terminated by court order.

(b) Any amount otherwise owing to a county pursuant to Article XIII B of the California Constitution and Sections 17561 and 17565 of the Government Code for costs incurred by the county for the costs of investigation or review by court investigators pursuant to Sections 1826, 1850, and 1851 shall be reduced by the amount of any assessments actually collected during the fiscal year pursuant to subdivision (a).

SEC. 19. Section 1875 of the Probate Code, as amended by Chapter 1208 of the Statutes of 1990, is repealed.

SEC. 20. Section 1875 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

1875. A transaction that affects real property of the conservatorship estate, entered into by a person acting in good faith and for a valuable consideration and without knowledge of the establishment of the conservatorship, is not affected by any provision of this article or any order made under this article unless a notice of the establishment of the conservatorship or temporary conservatorship has been recorded prior to the transaction in the county in which the property is located.

SEC. 20.5. Section 2629 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

2629. (a) Subject to the provisions of this section, if the guardian or conservator does not file a required account, the court shall compel the account by punishment for contempt.

(b) A citation shall be issued, served, and returned, requiring a guardian or conservator who does not file a required account to appear and show cause why the guardian or conservator should not

be punished for contempt. If the guardian or conservator purposely evades personal service of the citation, the guardian or conservator shall be removed from office.

(c) If the guardian or conservator does not appear and file a required account after having been duly cited, the guardian or conservator may be punished for contempt or removed from office, or both, in the discretion of the court.

SEC. 21. Section 6247 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, as amended by Section 16 of Chapter 710 of the Statutes of 1990, is amended to read:

6247. (a) Except as specifically provided in this chapter, a California statutory will shall include only the texts of the property disposition clauses and the mandatory clauses as they exist on the day the California statutory will is executed.

(b) Sections 6205, 6206, 6226, 6243, 6245, and 6246 apply to every California statutory will, including those executed before January 1, 1985. Section 6211 applies to every California statutory will, including those executed before July 1, 1991, except that Section 6211 does not apply if the testator died before July 1, 1991.

(c) Notwithstanding Section 6222 and except as provided in subdivision (b), a California statutory will is governed by the law that applied prior to January 1, 1985, if the California statutory will is executed on or after January 1, 1985, on a form that (1) was prepared for use under former Sections 56 to 56.14, inclusive, repealed by Chapter 842 of the Statutes of 1983, and (2) satisfied the requirements of law that applied prior to January 1, 1985.

(d) A California statutory will does not fail to satisfy the requirement of subdivision (a) merely because the will is executed on a form that incorporates the mandatory clauses of Section 6246 that refer to former Section 1120.2, repealed by Chapter 820 of the Statutes of 1986. If the will incorporates the mandatory clauses with a reference to former Section 1120.2, the trustee has the powers listed in Article 2 (commencing with Section 16220) of Chapter 2 of Part 4 of Division 9.

SEC. 22. Section 7622 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

7622. Except as otherwise provided in this chapter:

(a) The public administrator shall administer the estate in the same manner as a personal representative generally, and the provisions of this code concerning the administration of the decedent's estate apply to administration by the public administrator.

(b) The public administrator is entitled to receive the same compensation as is granted by this division to a personal representative generally. The attorney for the public administrator is entitled to receive the same compensation as is granted by this division to an attorney for a personal representative generally. However, the compensation of the public administrator and the public administrator's attorney shall not be less than the

compensation in effect at the time of appointment of the public administrator.

SEC. 23. Section 7662 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, as amended by Section 18 of Chapter 710 of the Statutes of 1990, is amended to read:

7662. The public administrator acting under authority of this article shall pay out the money of the estate in the order prescribed in Section 11420, for expenses of administration, charges against the estate, and claims presented to the public administrator before distribution of the decedent's property pursuant to Section 7663. A creditor whose claim is paid under this section is not liable for contribution to a creditor whose claim is presented after the payment.

SEC. 24. Section 8907 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

8907. Neither the personal representative nor the attorney for the personal representative is entitled to receive compensation for extraordinary services by reason of appraising any property in the estate.

SEC. 25. Section 9050 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, as amended by Section 6.1 of Chapter 140 of the Statutes of 1990, is amended to read:

9050. (a) Subject to Section 9054, if a general personal representative has knowledge of a creditor of the decedent, the personal representative shall give notice of administration of the estate to the creditor. The notice shall be given as provided in Section 1215. For the purpose of this subdivision, a personal representative has knowledge of a creditor of the decedent if the personal representative is aware that the creditor has demanded payment from the decedent or the estate.

(b) The giving of notice under this chapter is in addition to the publication of the notice under Section 8120.

SEC. 25.5. The heading of Chapter 2.5 of Part 5 of Division 7 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is repealed.

SEC. 26. Section 10589 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

10589. (a) If the proposed action is one that would require court supervision if the personal representative had not been granted authority to administer the estate under this part and the personal representative has notice of a written objection made under Section 10587 to the proposed action or a restraining order issued under Section 10588, the personal representative shall, if the personal representative desires to take the proposed action, take the proposed action under the provisions of this code dealing with court supervision of that kind of action.

(b) If the proposed action is one that would not require court supervision even if the personal representative had not been granted authority to administer the estate under this part but the personal

representative has given notice of the proposed action and has notice of a written objection made under Section 10587 to the proposed action or a restraining order issued under Section 10588, the personal representative shall, if he or she desires to take the proposed action, request instructions from the court concerning the proposed action. The personal representative may take the proposed action only under such order as may be entered by the court.

(c) A person who objects to a proposed action as provided in Section 10587 or serves a restraining order issued under Section 10588 in the manner provided in that section shall be given notice of any hearing on a petition for court authorization or confirmation of the proposed action.

SEC. 27. Section 10800 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

10800. (a) Subject to the provisions of this part, for ordinary services the personal representative shall receive compensation based on the value of the estate accounted for by the personal representative, as follows:

(1) Four percent on the first fifteen thousand dollars ($15,000).

(2) Three percent on the next eighty-five thousand dollars ($85,000).

(3) Two percent on the next nine hundred thousand dollars ($900,000).

(4) One percent on the next nine million dollars ($9,000,000).

(5) One-half of one percent on the next fifteen million dollars ($15,000,000).

(6) For all above twenty-five million dollars ($25,000,000), a reasonable amount to be determined by the court.

(b) For the purposes of this section, the value of the estate accounted for by the personal representative is the total amount of the appraisal value of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property.

SEC. 28. Section 10801 of the Probate Code enacted by Chapter 79 of the Statutes of 1990 is amended to read:

10801. (a) Subject to the provisions of this part, in addition to the compensation provided by Section 10800, the court may allow additional compensation for extraordinary services by the personal representative in an amount the court determines is just and reasonable.

(b) The personal representative may also employ or retain tax counsel, tax auditors, accountants, or other tax experts for the performance of any action which such persons, respectively, may lawfully perform in the computation, reporting, or making of tax returns, or in negotiations or litigation which may be necessary for the final determination and payment of taxes, and pay from the funds of the estate for such services.

SEC. 29. Article 2 (commencing with Section 10810) of Chapter

1 of Part 7 of Division 7 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, as added by Chapter 710 of the Statutes of 1990, is repealed.

SEC. 30. Article 2 (commencing with Section 10810) is added to Chapter 1 of Part 7 of Division 7 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, to read:

Article 2. Compensation of Estate Attorney

10810. (a) Subject to the provisions of this part, for ordinary services the attorney for the personal representative shall receive compensation based on the value of the estate accounted for by the personal representative, as follows:

(1) Four percent on the first fifteen thousand dollars ($15,000).

(2) Three percent on the next eighty-five thousand dollars ($85,000).

(3) Two percent on the next nine hundred thousand dollars ($900,000).

(4) One percent on the next nine million dollars ($9,000,000).

(5) One-half of 1 percent on the next fifteen million dollars ($15,000,000).

(6) For all above twenty-five million dollars ($25,000,000), a reasonable amount to be determined by the court.

(b) For the purposes of this section, the value of the estate accounted for by the personal representative is the total amount of the appraisal value of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the appraisal value on sales, without reference to encumbrances or other obligations on estate property.

10811. (a) Subject to the provisions of this part, in addition to the compensation provided by Section 10810, the court may allow additional compensation for extraordinary services by the attorney for the personal representative in an amount the court determines is just and reasonable.

(b) Extraordinary services by the attorney for which the court may allow compensation include services by a paralegal performing the extraordinary services under the direction and supervision of an attorney. The petition for compensation shall set forth the hours spent and services performed by the paralegal.

10812. (a) Except as otherwise provided in this section, if the decedent's will makes provision for the compensation of the attorney for the personal representative, the compensation provided by the will shall be the full and only compensation for the services of the attorney for the personal representative.

(b) The personal representative or the attorney for the personal representative may petition the court to be relieved from a provision of the will that provides for the compensation of the attorney for the personal representative.

(c) Notice of the hearing on the petition shall be given as

provided in Section 1220 to all of the following persons:

(1) Each person listed in Section 1220.

(2) Each known heir whose interest in the estate would be affected by the petition.

(3) Each known devisee whose interest in the estate would be affected by the petition.

(4) The Attorney General, at the office of the Attorney General in Sacramento, if any portion of the estate is to escheat to the state and its interest in the estate would be affected by the petition.

(5) If the court determines that it is to the advantage of the estate and in the best interest of the persons interested in the estate, the court may make an order authorizing compensation of the attorney for the personal representative in an amount greater than provided in the will.

10813. An agreement between the personal representative and the attorney for higher compensation for the attorney than that provided by this part is void.

10814. If there are two or more attorneys for the personal representative, the attorney's compensation shall be apportioned among the attorneys by the court according to the services actually rendered by each attorney or as agreed to by the attorneys.

SEC. 30.5. Section 11623 of the Probate Code enacted by Chapter 79 of the Statutes of 1990, as amended by Chapter 710 of the Statutes of 1990, is amended to read:

11623. (a) Notwithstanding Section 11601, if authority is granted to administer the estate without court supervision under the Independent Administration of Estates Act, Part 6 (commencing with Section 10400):

(1) The personal representative may petition the court for an order for preliminary distribution on notice as provided in Section 1220. Notwithstanding subdivision (c) of Section 1220, the court may not dispense with notice unless the time for filing creditor claims has expired.

(2) The aggregate of all property distributed under this section shall not exceed 50 percent of the net value of the estate. For the purpose of this subdivision, "net value of the estate" means the excess of the value of the property in the estate, as determined by all inventories and appraisals on file with the court, over the total amount of all creditor claims and of all liens and encumbrances recorded or known to the personal representative not included in a creditor claim, excluding any estate tax lien occasioned by the decedent's death.

(b) Nothing in this section limits the authority of the personal representative to make preliminary distribution under other provisions of this chapter, whether or not authority is granted to administer the estate under the Independent Administration of Estates Act, Part 6 (commencing with Section 10400).

SEC. 31. This act shall become operative on July 1, 1991.

SEC. 32. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall take effect immediately upon enactment and become operative on July 1, 1991. The facts constituting the necessity are:

Chapter 79 of the Statutes of 1990 enacted a new Probate Code, to become operative on July 1, 1991. This act makes technical corrections and revisions in provisions that are included in the new code. In order that these corrections and revisions may become operative at the same time the new code becomes operative, it is necessary that this act take effect immediately.

CHAPTER 83

An act to amend Section 23402 of, and to repeal Section 23403 of, the Education Code, to amend Sections 20026, 20026.1, 20026.2, 20034, 20127, 20130, 20137, 20138, 20141, 20203.3, 20205.8, 20231, 20453, 20750.93, and 20754 of, to add Sections 20006.1, 20013.75, 20131.01, 20132.6, 20652.5, 20750.905, 20751.5, 21235.5, 21236.5, and 22825.15 to, to add Chapter 8.5 (commencing with Section 19999.2) to Part 2.6 of Division 5 of Title 2 of, to repeal and add Section 20006 of, and to repeal Sections 20128, 20130.2, 20131, 20132.5, 20234, 20454, 20455, 20750.9, 21235, 21236, 21237, and 21238 of the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991 Filed with Secretary of State June 30, 1991]

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

SECTION 1. Section 23402 of the Education Code is amended to read:

23402. (a) Commencing October 1, 1991, and quarterly 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 1.075 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.

(h) The amendments to this section during the 1991–92 Regular Session 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. 2. Section 23403 of the Education Code is repealed.

SEC. 3. Chapter 8.5 (commencing with Section 19999.2) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 8.5. RETIREMENT PLAN FOR EMPLOYEES EXCLUDED FROM THE PUBLIC EMPLOYEES_ RETIREMENT SYSTEM

19999.2. (a) The Legislature hereby finds and declares that this chapter is intended to satisfy the requirements prescribed by the Omnibus Budget Reconciliation Act of 1990 (OBRA). Section 3121(b)(7)(F) of the Internal Revenue Code requires that state employees who are not members of the Public Employees' Retirement System must be covered by social security, or, in the alternative, be provided benefits through a qualified pension or annuity program, effective with compensated services rendered on

or after July 2, 1991. Therefore, the Legislature hereby authorizes the development of a retirement program under the State's Deferred Compensation Plan, the Savings Plan, or any other acceptable defined contribution plan in which state employees can defer compensation at 7.5 percent of wages, as the term "wages" is defined for social security purposes.

(b) "State employees," as used in subdivision (a), includes the employees defined in Section 19815, as well as employees of the California State University, who are not covered by social security or by the Public Employees' Retirement System.

(c) This section shall not apply to employees of the California State University unless and until the trustees authorizes their coverage in this retirement program.

(d) In the event that the retirement program authorized by this section is inconsistent with federal laws or rules or becomes unnecessary under the state or federal law, this section shall become inoperative.

19999.21. The Department of Personnel Administration shall administer the retirement program established by this chapter. The department shall provide by rule for the regulation of the retirement program and the method by which the benefit payments would be made to eligible recipients. The department shall by rule establish the level of employee deferrals to the plan, cessation of, or transfer of membership to the Public Employees' Retirement System upon qualification, continued participation in the plan, and other provisions necessary for the implementation of this retirement program. The department may assess each state agency a fee for the costs associated with administration of this program.

The regulations shall not be subject to the review and approval of the Office of Administrative Law, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 4. Section 20006 of the Government Code is repealed.

SEC. 5. Section 20006 is added to the Government Code, to read:

20006. (a) "Actuary" means an individual or firm practicing as an enrolled consulting actuary appointed by the Governor under contract with the Governor's Office. The contract shall not be subject to any provisions of law relating to competitive bidding. The contract shall be for a fixed period of time not to exceed three years as determined by the Governor. The compensation paid to the actuary and other necessary employees of the actuary shall be fixed by the contract. The actuary under contract with the Governor's Office pursuant to this section may not be awarded a successive contract. All costs of the contract for the actuary shall be paid from the retirement fund on an annual basis. In carrying out duties under this part, the actuary shall be deemed to succeed to and assume the fiduciary obligations pertaining to actuarial determinations previously held by members of the board, including, but not limited

to, those set forth in Section 17 of Article XVI of the California Constitution.

(b) The Governor shall submit the name of the actuary to each house of the Legislature. The actuary shall commence serving in office on the day after receipt of confirmation by both houses of the Legislature. However, the appointment shall become effective and be deemed confirmed the 61st calendar day after the submission of the nomination unless a majority of either house affirmatively rejects the nomination. If the 60-day period ends during a recess of the Legislature, the period is extended to the sixth day following the date on which the Legislature reconvenes.

SEC. 6. Section 20006.1 is added to the Government Code, to read:

20006.1. On an annual basis, no later than December 1 of each year, the actuary shall make an actuarial valuation of the liabilities for benefits under this part on account of employees of the state. As of the effective date of this section, and thereafter at the end of periods not to exceed four years, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of members and persons receiving benefits and an actuarial valuation of the assets and liabilities of this system. From time to time, the actuary shall determine the rate of interest being earned on the Retirement Fund after deducting from earnings amounts applied to costs of administration of the system.

SEC. 7. Section 20013.75 is added to the Government Code, to read:

20013.75. (a) It is the intent of the Legislature that the Department of Personnel Administration, in conjunction with the recognized state employee organizations, develop alternatives to the Second Tier retirement plan by June 30, 1992. The alternative plan may include enhanced benefits or provide benefits under a defined contribution program. However, the state employer's contribution to the alternative plan shall not be greater than the state's contribution rate to the current Second Tier. At the time that an alternative plan is agreed to and implemented, employees who were placed in the Second Tier shall be given an opportunity to elect coverage in the new alternative plan. In the event no alternative plan is implemented by June 30, 1992, employees shall remain in the Second Tier.

(b) Notwithstanding any other provision of this article, persons who first become state miscellaneous or state industrial members of the system on or after the effective date of this section who are: (1) excluded from the definition of state employee in subdivision (c) of Section 3513; (2) supervisory employees as defined in Section 3522.1; (3) employed by the executive branch of government who are not members of the civil services; and (4) defined in subdivision (c) of Section 3513 shall become subject to Section 21251.146.

(c) This section shall not apply to state miscellaneous members employed by the California State University or employees described

in Section 20364.

SEC. 8. Section 20026 of the Government Code is amended to read:

20026. "Regular interest" means interest at the annual interest rate fixed by the actuary for purposes of crediting of interest, compounded annually.

SEC. 9. Section 20026.1 of the Government Code is amended to read:

20026.1. "Annual interest rate" means the interest rate fixed by the actuary for purposes of crediting interest.

SEC. 10. Section 20026.2 of the Government Code is amended to read:

20026.2. "Actuarial interest rate" means the interest rate fixed by the actuary for purposes of actuarial valuation of the assets and liabilities of this system.

SEC. 11. Section 20034 of the Government Code is amended to read:

20034. "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the actuary.

SEC. 12. Section 20127 of the Government Code is amended to read:

20127. The board shall keep in convenient form such data as is necessary for the actuarial valuation of this system.

SEC. 13. Section 20128 of the Government Code is repealed.

SEC. 14. Section 20130 of the Government Code is amended to read:

20130. Upon the basis of any or all of such investigation, valuation, and determination, the actuary shall adopt such mortality, service and other tables and annual and actuarial interest rates as he or she deems necessary.

A change in interest rate adopted by the actuary shall not apply to any election of a member to deposit or redeposit contributions, including interest, filed prior to the date the change was placed into effect.

SEC. 15. Section 20130.2 of the Government Code is repealed.

SEC. 16. Section 20131 of the Government Code is repealed.

SEC. 17. Section 20131.01 is added to the Government Code, to read:

20131.01. Funds remaining in the Investment Dividend Disbursement Account, the Purchasing Power Accounts, and the Extraordinary Performance Dividend Account upon the repeal of Sections 21235, 21236, 21237, and 21238, shall be used to reduce employer contributions in fiscal year 1991–92 and subsequent fiscal years until those amounts are depleted.

SEC. 18. Section 20132.5 of the Government Code is repealed.

SEC. 19. Section 20132.6 is added to the Government Code, to read:

20132.6. (a) The board shall credit all contributions of members

and retired members in the retirement fund with interest at the current annual interest rates compounded at each June 30. Except as provided in subdivision (b), the current annual interest rate shall not be lower than the current actuarial interest rate.

(b) In any fiscal year in which the net earnings rate does not exceed the current actuarial interest rate by 110 basis points, the current annual interest rate to be credited to member and retired member contributions may be reduced by an amount that is no more than 110 basis points less than the net earnings rate in order to provide the amount specified in Section 21235.5.

(c) If the current net earnings rate exceeds the annual interest rate used to credit the member and retired member accounts, in addition to the amount transferred to the fund established under Section 21235.5, the remaining amount shall be credited to employer accounts.

(d) It is the intent of the Legislature that the annual interest rate for crediting member contributions and the actuarial interest rate shall be determined independently of the amount needed to fund Section 21235.5.

SEC. 20. Section 20137 of the Government Code is amended to read:

20137. The actuary shall report to the board, the Governor, and the Legislature, not later than December 1 of each year, on the extent to which the purpose of Section 21220 is being achieved under the provisions of this article and the amount of supplementary increases in retirement allowances required to meet the objective of preserving the purchasing power of benefits provided by the system. The actuary shall also determine and report on the increase in the state contribution rate required to provide the supplementary increases for state members, other than school members.

SEC. 21. Section 20138 of the Government Code is amended to read:

20138. The board shall submit an annual report to the Legislature and the Governor, which report shall include:

(a) A copy of the annual audit performed pursuant to Section 20233.

(b) A review by a consultant, a review of the system's asset mix strategy, a market review of the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(c) A description of the system's investments, including the concentration of stocks and bonds, at cost and market value, including dividends and coupons, and a summary of major changes that occurred since the previous year.

(d) The following information regarding the rate of return of the system by asset type:

(1) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(2) Dollar-weighted return on a five-year, three-year, two-year,

and one-year basis.

(3) Book valuation return on a five-year, three-year, two-year, and one-year basis.

(4) Portfolio return comparisons which compare investment returns with an alternative theoretical portfolio of comparable funds, universes, and indexes.

(5) Returns as credited to employer accounts.

(6) Returns as reported in the annual reports.

(7) Returns as reported by the Controller.

(e) A transaction summary which shall adequately review the system's custodial relationship and daily cash management, purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads, and accommodations.

(f) The system shall report on the use of outside investment advisers and managers and any participation in corporate annual meetings and shareholder voting.

(g) A discussion of the system's portfolio containing the following information:

(1) Concentration, current holdings at cost and market value, risk characteristics (R-squared, Beta standard error), and fundamentals (P/E, dividend yield, measures of growth, size, earnings quality, debt/equity) of equities.

(2) Concentration, current holdings at cost and market value, maturity, duration, quality, coupon, and current yield of fixed income instruments.

(3) Current holdings at cost and market value of real estate equities.

(4) Current holdings at cost and market value of mortgages.

(5) Securities lending activity.

(6) Options and forward commitments.

(7) Cash and cash equivalents.

(h) Include a performance review of asset allocation, of equities due to market timing, sector selection, stock selection and trading, of fixed income instruments due to interest rate anticipation skills, credit analysis, sector trading and swapping and of value added over indexing (alpha).

(i) A review of the system's custodial relationship and daily cash management and a summary of the system's investment transactions, including purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads and accommodations.

(j) A review of the role of any outside managers and advisers, shareholder voting, and changes in investment staff or reorganization.

SEC. 22. Section 20141 of the Government Code is amended to read:

20141. The actuary may, in determining contributions required of contracting agencies, establish a contribution with respect to

industrial disability allowances, special death benefits, and any other death benefit, singly or in any combination, separate from and independent of the contribution required for other benefits under their contracts. The total contribution, in that case, for the agencies as a group shall be established and from time to time adjusted by actuarial valuation performed by the actuary of the liability for the benefit or benefits on account of the employees of all those agencies. Adjustments shall affect only future contributions and shall take into account the difference between contributions on hand and the amount required to fund the allowances or benefits for which entitlement has already been established as well as liability for future entitlements to benefits. The contribution as so established and adjusted from time to time shall be allocated between the agencies on a basis which in the opinion of the board, after recommendation of the actuary, provides an equitable distribution between the agencies; provided, however, that the allocation shall not be based on differences in the incidence of death or disability in the respective agencies.

SEC. 23. Section 20203.3 of the Government Code is amended to read:

20203.3. Notwithstanding any other provision of law, no funds in the retirement fund shall be expended for any purpose other than the cost of administration of the system, investments for the benefit of the system, the reduction of employer contributions, and the provision of benefits to the members and retired members of the system and their survivors and beneficiaries.

SEC. 24. Section 20205.8 of the Government Code is amended to read:

20205.8. The board and its officers and employees shall discharge their duties with respect to the system solely in the interest of the participants and beneficiaries:

(a) For the exclusive purpose of both of the following:

(1) Providing benefits to members, retired members, and their survivors and beneficiaries.

(2) Defraying reasonable expenses of administering the system.

(b) Minimizing the employers' costs of providing benefits under this part.

(c) By investing with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

SEC. 25. Section 20231 of the Government Code is amended to read:

20231. The actuary shall cause to be published, as of the date of the investigation and valuation made pursuant to Section 20127, a financial statement showing an actuarial valuation of the assets and liabilities of this system and a statement as to the accumulated cash and securities in the Retirement Fund as certified by the Controller. The actuary may omit from the statement, which shall be published

as of July 1 of every other year, assets and liabilities resulting from prior service, and shall include assets and liabilities on account of current service in amounts equal only to accumulated contributions held on account of that service.

SEC. 26. Section 20234 of the Government Code is repealed.

SEC. 27. Section 20453 of the Government Code is amended to read:

20453. The approximate contribution quoted by the board and the actual contribution to be made if a contract results shall be determined by actuarial valuations by the actuary of the prior and future service liability under this system, on account of the employees involved in the computation, in the same manner as the contribution required of the state on account of its employees was originally determined, except that in consideration of the number of employees of the agency or other circumstances, a different manner of determining the contribution may be adopted by the board, upon recommendation of the actuary.

SEC. 28. Section 20454 of the Government Code is repealed.

SEC. 29. Section 20455 of the Government Code is repealed.

SEC. 29.5. Section 20652.5 is added to the Government Code, to read:

20652.5. (a) Notwithstanding any other provision of this part, any member of this system who is paid his or her accumulated contributions shall receive the sum of all accumulated contributions credited to his or her account. The accumulated contributions shall include: (1) the interest which had been credited to the member's account prior to the effective date of this section; plus (2) the contributions and interest which had been credited after the effective date of this section at an interest rate of 6 percent annually compounded.

(b) The interest amount which would have been otherwise credited to the member's account on or after the effective date of this section, but for the return of the member's accumulated contributions, shall be transferred to the account established by the board under Section 21235.5 to fund the purchasing power protection allowance.

SEC. 30. Section 20750.9 of the Government Code is repealed.

SEC. 31. Section 20750.905 is added to the Government Code, to read:

20750.905. (a) Notwithstanding any other provision of law, the state's contribution as fixed under this chapter shall be adjusted thereafter from time to time in the annual Budget Act according to the following method. As part of the proposed budget submitted pursuant to Section 12 of Article IV, of the California Constitution, the Governor shall include the contribution rates submitted by the actuary of the liability for benefits on account of employees of the state. The Legislature shall adopt the actuary's contribution rates and authorize the appropriation in the Budget Act.

(b) The employer contribution rates for all other public

employers under this system shall be determined on an annual basis by the actuary and shall be effective on the July 1 following notice of change in rate.

SEC. 32. Section 20750.93 of the Government Code is amended to read:

20750.93. The actuary shall recognize, over the same funding period used to amortize unfunded accrued actuarial obligations, using the entry age normal funding method, that portion of assets of an employer currently designated as excess assets in each fiscal year equal to the following:

1993–94	20%
1994–95	40%
1995–96	60%
1996–97	80%

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1998, deletes or extends that date.

SEC. 33. Section 20751.5 is added to the Government Code, to read:

20751.5. (a) Notwithstanding Section 20751, the state's contributions for the 1991–92 fiscal year for the members specified in Section 20751 shall be appropriated semiannually, on January 31, 1992, and June 30, 1992.

(b) The Legislature finds and declares that this section will not affect the soundness of the Public Employees' Retirement Fund, in that the change to semiannual payments is on a one-time basis and any resulting loss to that fund will be accounted for by increased employer contributions in subsequent years.

SEC. 34. Section 20754 of the Government Code is amended to read:

20754. The board shall certify to the Controller at the end of each quarter or semiannual period, as appropriate, 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. 35. Section 21235 of the Government Code is repealed.

SEC. 36. Section 21235.5 is added to the Government Code, to read:

21235.5. (a) On an annual basis, the board shall transfer the lessor of: (1) the amount necessary to increase all monthly allowances paid by the system to 75 percent of the purchasing power of the initial monthly allowances; or (2) up to 1.1 percent of the net earnings on member contributions, as determined by Section 20132.6, to a supplemental account.

(b) The funds so transferred to the supplemental account shall be utilized to increase all monthly allowances paid by the system up to a maximum of 75 percent of the purchasing power, as determined by the actuary, of the initial monthly allowances that were received by every retired person or survivor or beneficiary of a state, school or local member or retired person who was eligible to receive any allowance at the end of each fiscal year. Funds remaining in the account after the payment of benefits under this section shall be transferred to the employer accounts.

SEC. 37. Section 21236 of the Government Code is repealed.

SEC. 38. Section 21236.5 is added to the Government Code, to read:

21236.5. If a court of competent jurisdiction, from which all appeals are final, holds that Section 20131.01 is invalid, Section 21235.5 shall become inoperative.

SEC. 39. Section 21237 of the Government Code is repealed.

SEC. 40. Section 21238 of the Government Code is repealed.

SEC. 41. Section 22825.15 is added to the Government Code, to read:

22825.15. (a) Notwithstanding Section 22825.1, the employer's contribution with respect to each excluded employee as defined by subdivision (b) of Section 3527 who is otherwise eligible shall be determined by the Department of Personnel Administration subject to the appropriation of funds by the Legislature in the Budget Act.

(b) Notwithstanding Section 22825.1 or any other provision of law, the employer's contribution with respect to each state employee, as defined by subdivision (c) of Section 3513 who is otherwise eligible, shall be determined through the collective bargaining process subject to the appropriation of funds by the Legislature in the Budget Act.

SEC. 42. In expending any savings which accrue to Public Employees' Retirement System employers as a result of the repeal of the retirement allowance adjustment programs established pursuant to Sections 21235, 21236, 21237, and 21238 of the Government Code, the state, school districts, cities, counties, local districts, agencies, and any other Public Employees' Retirement System employers, shall give the highest priority to retaining or rehiring as many as possible of those Public Employees' Retirement System members subject to layoff or reduction.

SEC. 42.5. Notwithstanding Section 3.60 of the Budget Act of 1991, if funds remaining in the Investment Dividend Disbursement Account, the Purchasing Power Accounts, and the Extraordinary Performance Dividend Account in the Public Employees' Retirement Fund are used to reduce employer contributions pursuant to Section 20131.01 of the Government Code, funds appropriated in Items 0110-001-001, 0120-011-001, and 0160-001-001 of Section 2.00 of the Budget Act of 1991 and Section 33.50 of the Budget Act of 1991 shall not be reduced pursuant to Section 3.60 of the Budget Act of 1991 or any other provision of law.

SEC. 43. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 projected shortfall between General Fund revenues and expenditures of $14.3 billion for the 1991–92 fiscal year constitutes a genuine fiscal emergency, therefore this act must take effect immediately in order to ensure the continuation of essential governmental services.

CHAPTER 84

An act to amend Sections 11301, 11310, and 11313.5 of the Business and Professions Code, and to amend Sections 3 and 5 of Chapter 491 of the Statutes of 1990, relating to real estate, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 11301 of the Business and Professions Code is amended to read:

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 January 1, 1992, 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.

SEC. 2. Section 11310 of the Business and Professions Code is amended to read:

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 Department of Personnel Administration.

(b) The director shall not be actively engaged in the appraisal business or any other affected industry for the term of appointment, and thereafter the director shall be subject to Section 87406 of the Government Code.

(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 activities 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.

SEC. 3. Section 11313.5 of the Business and Professions Code is amended to read:

11313.5. The Business, Transportation and Housing Agency or the Director of the Office of Real Estate Appraisers shall adopt regulations to implement this part. Regulations adopted to implement this part, and any amendments to these regulations, that are adopted on or before December 31, 1992, may be adopted as emergency regulations, upon designation as such by the adopting authority, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purpose of the Administrative Procedure Act, the adoption of regulations designated as emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, and notwithstanding subdivision (b) of Section 11346.1 of the Government Code, the regulations shall not be subject to the review and approval of the Office of Administrative Law.

SEC. 4. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations issued under the authority of Section 11313.5 of the Business and Professions Code, whether issued before or after the effective date of this act, shall remain in effect until December 31, 1992.

SEC. 5. Section 3 of Chapter 491 of the Statutes of 1990 is amended to read:

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 on or before June 30, 1992, 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. 6. Section 5 of Chapter 491 of the Statutes of 1990 is amended to read:

Sec. 5. Section 2 of this act shall become operative on January 1, 1992, except that if federal law requires the repeal of the Lancaster-Montoya Appraisal Act on a date prior to that January 1, 1992, Section 2 shall become operative on that earlier date.

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 the most efficient and rapid implementation that is consistent with applicable federal guidelines and time periods, it is necessary that this act take effect immediately.

CHAPTER 85

An act to amend Sections 6015, 6051, 6201, 6359, 6385, 6907, 6936, and 7102 of, to amend and repeal Sections 6359.6 and 6362 of, to add Sections 6051.2, 6201.2, 6359.5, and 6376.1 to, and to add and repeal Sections 6051.5 and 6201.5 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 6015 of the Revenue and Taxation Code is amended to read:

6015. (a) "Retailer" includes:

(1) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(2) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(3) Any person conducting a race meeting under Chapter 4 of Division 8 of the Business and Professions Code, with respect to horses which are claimed during such meeting.

(b) When the board determines that it is necessary for the efficient administration of this part to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them,

irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors, or employers the board may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of this part.

(c) Notwithstanding subdivision (b), a newspaper carrier is not a retailer and the retailer is the publisher or distributor for whom the carrier delivers the newspapers. The publisher or distributor is responsible for the tax measured by the price charged to the customer by the carrier.

SEC. 2. Section 6051 of the Revenue and Taxation Code is amended to read:

6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 2½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 percent thereafter, and at the rate of 2½ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3¾ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4¾ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3¾ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4¾ percent on and after April 1, 1974, and to and including June 30, 1991, and at the rate of 5 percent thereafter.

SEC. 3. Section 6051.2 is added to the Revenue and Taxation Code, to read:

6051.2. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 1, 1991.

(b) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6201.2 that are deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 4. Section 6051.5 is added to the Revenue and Taxation Code, to read:

6051.5. (a) In addition to the taxes imposed by Sections 6051 and 6051.2, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 1, 1991.

(b) Subdivision (a) shall cease to be operative as of July 1, 1993, unless either of the following applies:

(1) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then subdivision (a) shall cease to be operative as of July 1, 1992.

(B) On or before May 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(2) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the last six months of the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then subdivision (a) shall cease to be operative as of January 1, 1993.

(B) On or before November 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed.

SEC. 5. Section 6201 of the Revenue and Taxation Code is amended to read:

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1935, for storage, use, or other consumption in this state at the rate of 3 percent of the sales price of the property, and at the rate of 2½ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3¾ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4¾ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3¾ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4¾ percent on or after April 1, 1974, and to and including June 30, 1991, and at the rate of 5 percent thereafter.

SEC. 6. Section 6201.2 is added to the Revenue and Taxation Code, to read:

6201.2. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1991, for storage, use, or other consumption in this state at the rate of ½ percent of the sales price of the property.

(b) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6201.2 and deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 7. Section 6201.5 is added to the Revenue and Taxation Code, to read:

6201.5. (a) In addition to the taxes imposed by Sections 6201 and 6201.2, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after the operative date of this section, for storage, use, or other consumption in this state at the rate of ½ percent of the sales price of the property on and after July 1, 1991.

(b) Subdivision (a) shall cease to be operative as of July 1, 1993, unless either of the following applies:

(1) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then subdivision (a) shall cease to be operative as of July 1, 1992.

(B) On or before May 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(2) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the last six months of the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then subdivision (a) shall cease to be operative as of January 1, 1993.

(B) On or before November 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed.

SEC. 8. Section 6359 of the Revenue and Taxation Code is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

(b) For the purposes of this section, "food products" include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, other than candy or confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products, other than candy or confectionery.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, except bottled water, spirituous, malt or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" do not include any of the following:

(1) Medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) Snack foods. For purposes of this section, "snack foods" means cookies, crackers (excluding soda, graham, and arrowroot crackers), potato chips, snack cakes or pies, corn or tortilla chips, pretzels, granola snacks, popped popcorn, fabricated chips, and fabricated snacks. "Snack foods" include only items that are sold in a condition suitable for consumption without further processing such as cooking, heating, or thawing.

(d) None of the exemptions provided for in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are

provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) shall not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold.

(f) The amendments to this section by the act adding this subdivision shall become operative on July 1, 1991.

SEC. 9. Section 6359.5 is added to the Revenue and Taxation Code, to read:

6359.5. These are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state of candy, confectionery, and snack foods (as defined in paragraph (2) of subdivision (c) of Section 6359) sold on an irregular or intermittent basis by any nonprofit youth organization listed or described in paragraph (3) of subdivision (b) of Section 6361 if the organization's profits from those sales are used exclusively in furtherance of the purposes of the organization.

SEC. 10. Section 6359.6 of the Revenue and Taxation Code is amended to read:

6359.6. (a) Notwithstanding Section 6359, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of noncarbonated and noneffervescent bottled water sold in individual

containers of one-half gallon or more in size.

(b) This section shall remain in effect only until July 1, 1991, and as of that date is repealed.

SEC. 11. Section 6362 of the Revenue and Taxation Code is amended to read:

6362. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months and any such newspaper or periodical.

(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of a photograph, whether or not produced to special order, when the possession, but not the title, of the photograph is transferred for the purpose of being reproduced one time only, in a newspaper regularly issued at the intervals set forth in subdivision (a) of this section.

(c) This section shall remain in effect only until July 1, 1991, and as of that date is repealed.

SEC. 12. Section 6376.1 is added to the Revenue and Taxation Code, to read:

6376.1. (a) On and after July 1, 1991, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ¼ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 1, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 1, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 1, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice,

whether or not the right is exercised.

(b) From July 1, 1991, to the date on which the taxes imposed by Sections 6051.2 and 6201.2 cease to be operative pursuant to subdivision (b) of Section 6051.2 or subdivision (b) of Section 6201.2, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a one-half of 1 percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 1, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 1, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 1, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(c) From July 1, 1991, to the date the taxes imposed by Sections 6051.5 and 6201.5 cease to be operative, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ½ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 1, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 1, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is

exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 1, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(d) On and after July 1, 1991, there are exempted from the taxes imposed by this part an amount equal to the tax imposed by this part, and on June 30, 1991, with respect to the sale or purchase of any tangible personal property that was exempt prior to the enactment of the act adding this section, with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 1, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 1, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not be be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 1, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

SEC. 13. Section 6385 of the Revenue and Taxation Code is amended to read.

6385. (a) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than fuel and petroleum products, to a common carrier, shipped by the seller via the purchasing carrier's facilities under a bill of lading whether the freight is paid in advance,

or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(b) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than aircraft fuel and petroleum products, purchased by a foreign air carrier and transported by the foreign air carrier's facilities to a foreign destination for use by the air carrier in the conduct of its business as a common carrier by air of persons or property. To qualify for this exemption, the foreign air carrier shall furnish to the seller a certificate in writing that the property shall be transported and used in the manner required in this subdivision. The certificate shall be substantially in the form prescribed by the board. A seller is not liable for the sales tax if the seller accepts the certificate in good faith. If the seller does not have the certificate at the time the board requests the seller to submit the certificate to the board, the seller shall be given a reasonable time to request the foreign air carrier to provide the seller with the certificate. The foreign air carrier shall maintain records in this state, such as a copy of a bill of lading, and air waybill or cargo manifest, documenting its transportation of the tangible personal property to a foreign destination.

(c) "Common carrier," as used in this section, with respect to water transportation, shall be deemed to include any vessel engaged, for compensation, in transporting persons or property in interstate or foreign commerce.

(d) "Foreign air carrier," as used in this section, means a foreign air carrier as defined in Section 1301 of Title 49 of the United States Code.

(e) Pursuant to subdivisions (a) and (b), any use of the property by the purchasing carrier, other than that incident to the delivery of the property to the carrier and the transportation of the property by the carrier to an out-of-state destination and subsequent use in the conduct of its business as a common carrier, or a failure of the carrier to document its transporting the property to an out-of-state destination, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

SEC. 14. *Section 6907 of the Revenue and Taxation Code is* amended to read:

6907. Interest shall be paid upon any overpayment of any amount of tax at a rate equal to the average of the bond equivalent rates of the 13-week treasury bills auctioned during the period for which interest is paid. Interest shall be paid from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to

the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 15. Section 6936 of the Revenue and Taxation Code is amended to read:

6936. In any judgment, interest shall be allowed at a rate equal to the average of the bond equivalent rates of the 13-week treasury bills auctioned during the period for which interest is paid. Interest shall be paid upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 16. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, and pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4¾-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(2) All revenues, less refunds, derived under this part at the 4¾-percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the 4¾-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be estimated by the State

Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than 4¾ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than 4¾ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than 4¾ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be made quarterly.

(d) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

SEC. 17. The State Board of Equalization may adopt emergency regulations, regarding any change made by this act, in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 18. The amendments made to Sections 6907 and 6936 of the Revenue and Taxation Code by Sections 14 and 15 of this act shall apply to all refunds of taxes, including overpayments and judgments, made from the Retail Sales Tax Fund on or after July 1, 1991.

SEC. 19. The sum of four million nine hundred fifty-eight thousand dollars ($4,958,000) is hereby appropriated from the General Fund to the State Board of Equalization for startup costs to implement this act, as follows:

(a) For the 1990–91 fiscal year, six hundred twenty-four thousand dollars ($624,000).

(b) For the 1991–92 fiscal year, four million three hundred thirty-four thousand dollars ($4,334,000).

SEC. 20. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 1 to 18, inclusive, of this act shall become operative on July 1, 1991, and shall apply to sales and purchases of tangible personal property made on and after July 1, 1991.

CHAPTER 86

An act to add Chapter 5.5 (commencing with Section 32220) to Part 14 of Division 2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Chapter 5.5 (commencing with Section 32220) is added to Part 14 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 5.5. SURTAX ON BEER, WINE, AND DISTILLED SPIRITS

Article 1. Imposition of the Surtax

32220. On and after July 1, 1991, an excise surtax is hereby imposed upon all beer and wine sold in this state by a manufacturer, winegrower, or importer, and upon all distilled spirits sold in this state by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, winegrower, importer, rectifier, wholesaler, common carrier with respect to distilled spirits sales made upon boats, trains, and airplanes, or persons licensed to sell distilled spirits upon boats, trains, and airplanes, and upon sellers of beer, wine, or distilled spirits with respect to which no tax has been paid within areas over which the United States government exercises jurisdiction, at the following rates:

(a) On all beer, sixteen cents ($0.16) per gallon and at a proportionate rate for any other quantity.

(b) On all still wines containing not more than 14 percent of absolute alcohol by volume, nineteen cents ($0.19) per wine gallon

and at a proportionate rate for any other quantity.

(c) On all still wines containing more than 14 percent of absolute alcohol by volume, eighteen cents ($0.18) per wine gallon and at a proportionate rate for any other quantity.

(d) On sparkling hard cider, eighteen cents ($0.18) per wine gallon and at a proportionate rate for any other quantity.

(e) On all distilled spirits of proof strength or less, one dollar and thirty cents ($1.30) per wine gallon and at a proportionate rate for any other quantity.

(f) On all distilled spirits in excess of proof strength, two dollars and sixty cents ($2.60) per wine gallon and at a proportionate rate for any other quantity.

32221. Except with respect to beer and wine in the internal revenue bonded premises of a manufacturer, and except with respect to distilled spirits in the possession of a distilled spirits manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or common carrier licensed to sell distilled spirits on board boats, trains, and airplanes, floor stock taxes are hereby imposed in amounts equal to the surtaxes imposed by Section 32220 upon all alcoholic beverages upon which the surtaxes have not been paid, that are in the possession or under the control of every person licensed under Division 9 (commencing with Section 23000) of the Business and Professions Code at 2:01 a.m. on July 1, 1991. On or before August 31, 1991, each person subject to the tax imposed by this section shall prepare and file with the State Board of Equalization, on a form prescribed by the board, a return showing the amount of units of beer, wine, sparkling hard cider, and distilled spirits possessed by him or her at 2:01 a.m. on July 1, 1991, that are subject to the tax imposed by this section, and any other information the board deems necessary for the proper administration of this chapter. The taxpayer shall deliver the return, together with a remittance of the amount of tax due, to the office of the board on or before August 31, 1991.

32222. The taxes imposed by this article are in addition to any other tax imposed upon beer, wine, sparkling hard cider, or distilled spirits by this part.

32223. All the provisions of this part relating to excise taxes, with the exception of those contained in Chapter 10 (commencing with Section 32501), are applicable also to the taxes imposed by this article, to the extent that those provisions are not inconsistent with this article.

Article 2. Disposition of Proceeds

32230. All surtaxes, interest, and penalties imposed and required to be paid under this chapter shall be made in remittances to the State Board of Equalization and shall be deposited in the General Fund.

SEC. 2. This act provides for a tax levy within the meaning of

Article IV of the Constitution and shall go into immediate effect.

CHAPTER 87

An act to amend Sections 10753 and 10753.2 of, to add Sections 10753.1, 10753.7, 10753.8, and 11001.5 to, and to repeal Section 6276 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor June 30, 1991 Filed with Secretary of State June 30, 1991]

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

SECTION 1. Section 6276 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 10753 of the Revenue and Taxation Code is amended to read:

10753. (a) For the purposes of this part, upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales or other local tax.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) In the event any vehicle is modified or additions are made to the chassis or body at a cost of two hundred dollars ($200) or more, but not including any change of engine of the same type or any cost of repairs to a vehicle, the owner of such vehicle shall report any such modification or additions to the department and the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the vehicle due to such modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of such modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

The foregoing provisions of this subdivision shall not apply in the event: (1) the cost of any modification or additions to the chassis or body of a vehicle is less than two hundred dollars ($200), (2) the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, or (3) the cost is for modifications which are necessary to enable a disabled person to use or operate such vehicle.

(d) This section is also applicable to a system specified in subdivision (c) approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when such a system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

SEC. 3. Section 10753.1 is added to the Revenue and Taxation Code, to read:

10753.1. (a) After determining the cost price to the purchaser, as provided in this article, the department shall classify or reclassify every vehicle in its proper class according to the classification plan set forth in this section.

(b) For the purpose of this part, a classification plan is established consisting of the following classes: a class from no dollars ($0) to and including forty-nine dollars and ninety-nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of such number of classes as will permit classification of all vehicles.

(c) The market value of a vehicle for each registration year, starting with the year the vehicle was first sold to a consumer as a new vehicle or the year the vehicle was first purchased or assembled by the person applying for original registration in this state, or the year the vehicle was sold to the current registered owner as a used vehicle, shall be as follows: for the first year, 85 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b); for the second year, 85 percent of that sum; for the

third year, 70 percent of that sum; for the fourth year, 55 percent of that sum; for the fifth year, 40 percent of that sum; for the sixth year, 30 percent of that sum; for the seventh year, 25 percent of that sum; for the eighth year, 15 percent of that sum; for the ninth year, 10 percent of that sum; and for the 10th year and each succeeding year, 5 percent of that sum; provided, however, that the minimum tax shall be the sum of one dollar ($1). Notwithstanding this subdivision, the market value of a trailer coach first sold on and after January 1, 1966, which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be determined by the schedule in Section 10753.3.

(d) This section shall become operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal of either of the following:

(1) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account of the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982.

SEC. 4. Section 10753.2 of the Revenue and Taxation Code is amended to read:

10753.2. (a) After determining the cost price to the purchaser, as provided in this article, the department shall classify or reclassify every vehicle in its proper class according to the classification plan set forth in this section.

(b) For the purpose of this part, a classification plan is established consisting of the following classes: a class from no dollars ($0) to and including forty-nine dollars and ninety-nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of such number of classes as will permit classification of all vehicles.

(c) The market value of a vehicle for each registration year, starting with the year the vehicle was first sold to a consumer as a new vehicle, or the year the vehicle was first purchased or assembled by the person applying for original registration in this state, or the year the vehicle was sold to the current registered owner as a used vehicle, shall be as follows: for the first year, 100 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b) ; for the second year, 90 percent of that sum; for the third year, 80 percent of that sum; for the fourth year, 70 percent of that sum; for the fifth year, 60 percent of that sum; for the sixth year, 50 percent of that sum; for the seventh year, 40 percent of that sum; for the eighth year, 30 percent of that sum; for

the ninth year, 25 percent of that sum; and for the 10th year, 20 percent of that sum; and for the 11th year and each succeeding year, 15 percent of that sum; provided, however, that the minimum tax shall be the sum of one dollar ($1). Notwithstanding this subdivision, the market value of a trailer coach first sold on and after January 1, 1966, which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be determined by the schedule in Section 10753.3.

(d) This section shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal of either of the following:

(1) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account of the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982.

SEC. 5. Section 10753.7 is added to the Revenue and Taxation Code, to read:

10753.7. (a) Upon the sale or transfer of ownership of a used vehicle currently registered in this state, if any license fee due thereon has already been paid, no adjustment of the current year license fee shall be made.

(b) Any adjustment of vehicle license fees, based upon a redetermination of market value pursuant to subdivision (a) of Section 10753 and modification of vehicle license fee classification pursuant to Section 10753.1 or 10753.2, shall occur upon the expiration of current registration and shall be reflected in the fees due for the first renewal of registration following the sale or transfer of ownership of that used vehicle.

SEC. 6. Section 10753.8 is added to the Revenue and Taxation Code, to read:

10753.8. (a) In addition to the license fee for any vehicle calculated pursuant to Section 10752, a surcharge in an amount equal to 2.2 percent of the fee under Section 10752 shall be added to that fee for any original registration occurring on or after August 1, 1991, and before August 1, 1992, and for any renewal of registration with an expiration date on or after August 1, 1991, and before August 1, 1992.

(b) This section shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal of either of the following:

(1) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account of the Local Revenue

Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982.

SEC. 7. Section 11001.5 is added to the Revenue and Taxation Code, to read:

11001.5. (a) Notwithstanding Section 11001, and except as provided in subdivision (b), 24.33 percent of the moneys collected by the department under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Vehicle License Fee Account of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(b) Notwithstanding Section 11001, 25.72 percent of the moneys collected by the department on or after August 1, 1991, and before August 1, 1992, under this part shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Vehicle License Fee Account of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code. All other moneys collected by the department under this part shall continue to be deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and allocated to each city, county, and city and county as otherwise provided by law.

(c) This section shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal of either of the following:

(1) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account of the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on August 1, 1991, and shall be applied with respect to motor vehicle license fees for any original registration occurring on or after August 1, 1991, and for any renewal of registration with an expiration date of August 1, 1991, or an expiration date thereafter.

CHAPTER 88

An act to amend Sections 6051, 6051.2, 6051.5, 6201, 6201.2, 6201.5, 6359, 6359.6, 6362, 6376.1, 32220, and 32221 of the Revenue and Taxation Code, to amend Section 8 of Assembly Bill 758 of the 1991–92 Regular Session, and to amend Section 20 of Assembly Bill 2181 of the 1991–92 Regular Session, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991]

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

SECTION 1. Section 6051 of the Revenue and Taxation Code, as amended by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 2½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 percent thereafter, and at the rate of 2½ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3¾ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4¾ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3¾ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4¾ percent on and after April 1, 1974, and to and including July 14, 1991, and at the rate of 5 percent thereafter.

SEC. 2. Section 6051.2 of the Revenue and Taxation Code, as added by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6051.2. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991.

(b) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6201.2 that are deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 3. Section 6051.5 of the Revenue and Taxation Code, as added by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6051.5. (a) In addition to the taxes imposed by Sections 6051 and 6051.2, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991.

(b) This section shall cease to be operative as of July 1, 1993, unless either of the following applies:

(1) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then this section shall cease to be operative as of July 1, 1992.

(B) On or before May 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(2) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the last six months of the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then this section shall cease to be operative as of January 1, 1993.

(B) On or before November 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed.

SEC. 4. Section 6201 of the Revenue and Taxation Code, as amended by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1935, for storage, use, or other consumption in this state at the rate of 3 percent of the sales price of the property, and at the rate of 2½ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent

on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3¾ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4¾ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3¾ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4¾ percent on or after April 1, 1974, and to and including July 14, 1991, and at the rate of 5 percent thereafter.

SEC. 5. Section 6201.2 of the Revenue and Taxation Code, as added by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6201.2. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 15, 1991, for storage, use, or other consumption in this state at the rate of ½ percent of the sales price of the property.

(b) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6201.2 and deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 6. Section 6201.5 of the Revenue and Taxation Code, as added by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6201.5. (a) In addition to the taxes imposed by Sections 6201 and 6201.2, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after the operative date of this section, for storage, use, or other consumption in this state at the rate of ½ percent of the sales price of the property on and after July 15, 1991.

(b) This section shall cease to be operative as of July 1, 1993, unless either of the following applies:

(1) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then this section shall cease to be operative as of July 1, 1992.

(B) On or before May 25, 1992, the Director of Finance shall

determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(2) (A) If the amount in the Special Fund for Economic Uncertainties, established pursuant to Section 16418 of the Government Code, as projected for June 30, 1993, is in excess of one billion five hundred million dollars ($1,500,000,000), not including the amount of revenue expected for the last six months of the 1992–93 fiscal year attributable to subdivision (a), as certified pursuant to subparagraph (B), then this section shall cease to be operative as of January 1, 1993.

(B) On or before November 25, 1992, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board the amount projected to be in the Special Fund for Economic Uncertainties on June 30, 1993.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed.

SEC. 7. Section 6359 of the Revenue and Taxation Code, as amended by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

(b) For the purposes of this section, "food products" include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, other than candy or confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products, other than candy or confectionery.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, except bottled water, spirituous, malt or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" do not include any of the following:

(1) Medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) Snack foods. For purposes of this section, "snack foods" means cookies, crackers (excluding soda, graham, and arrowroot crackers), potato chips, snack cakes or pies, corn or tortilla chips, pretzels, granola snacks, popped popcorn, fabricated chips, and fabricated snacks. "Snack foods" include only items that are sold in a condition suitable for consumption without further processing such as cooking,

heating, or thawing.

(d) None of the exemptions provided for in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) shall not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold.

(f) The amendments to this section by the act adding this subdivision shall become operative on July 15, 1991.

SEC. 8. Section 6359.6 of the Revenue and Taxation Code, as amended by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6359.6. (a) Notwithstanding Section 6359, there are exempted

from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size.

(b) This section shall remain in effect only until July 15, 1991, and as of that date is repealed.

SEC. 9. Section 6362 of the Revenue and Taxation Code, as amended by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6362. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months and any such newspaper or periodical.

(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of a photograph, whether or not produced to special order, when the possession, but not the title, of the photograph is transferred for the purpose of being reproduced one time only, in a newspaper regularly issued at the intervals set forth in subdivision (a) of this section.

(c) This section shall remain in effect only until July 15, 1991, and as of that date is repealed.

SEC. 10. Section 6376.1 of the Revenue and Taxation Code, as added by Assembly Bill 2181 of the 1991–92 Regular Session, is amended to read:

6376.1. (a) On and after July 15, 1991, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ¼ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the

storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(b) From July 15, 1991, to the date on which the taxes imposed by Sections 6051.2 and 6201.2 cease to be operative pursuant to subdivision (b) of Section 6051.2 or subdivision (b) of Section 6201.2, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a one-half of 1 percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(c) From July 15, 1991, to the date the taxes imposed by Sections 6051.5 and 6201.5 cease to be operative, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ½ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July

15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(d) On and after July 15, 1991, there are exempted from the taxes imposed by this part an amount equal to the tax imposed by this part on July 14, 1991, with respect to the sale or purchase of any tangible personal property that was exempt prior to the enactment of the act adding this section, with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

SEC. 11. Section 32220 of the Revenue and Taxation Code, as added by Assembly Bill 30 of the 1991–92 Regular Session, is amended

to read:

32220. On and after July 15, 1991, an excise surtax is hereby imposed upon all beer and wine sold in this state by a manufacturer, winegrower, or importer, and upon all distilled spirits sold in this state by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, winegrower, importer, rectifier, wholesaler, common carrier with respect to distilled spirits sales made upon boats, trains, and airplanes, or persons licensed to sell distilled spirits upon boats, trains, and airplanes, and upon sellers of beer, wine, or distilled spirits with respect to which no tax has been paid within areas over which the United States government exercises jurisdiction, at the following rates:

(a) On all beer, sixteen cents ($0.16) per gallon and at a proportionate rate for any other quantity.

(b) On all still wines containing not more than 14 percent of absolute alcohol by volume, nineteen cents ($0.19) per wine gallon and at a proportionate rate for any other quantity.

(c) On all still wines containing more than 14 percent of absolute alcohol by volume, eighteen cents ($0.18) per wine gallon and at a proportionate rate for any other quantity.

(d) On sparkling hard cider, eighteen cents ($0.18) per wine gallon and at a proportionate rate for any other quantity.

(e) On all distilled spirits of proof strength or less, one dollar and thirty cents ($1.30) per wine gallon and at a proportionate rate for any other quantity.

(f) On all distilled spirits in excess of proof strength, two dollars and sixty cents ($2.60) per wine gallon and at a proportionate rate for any other quantity.

SEC. 12. Section 32221 of the Revenue and Taxation Code, as added by Assembly Bill 30 of the 1991–92 Regular Session, is amended to read:

32221. Except with respect to beer and wine in the internal revenue bonded premises of a manufacturer, and except with respect to distilled spirits in the possession of a distilled spirits manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, or common carrier licensed to sell distilled spirits on board boats, trains, and airplanes, floor stock taxes are hereby imposed in amounts equal to the surtaxes imposed by Section 32220 upon all alcoholic beverages upon which the surtaxes have not been paid, that are in the possession or under the control of every person licensed under Division 9 (commencing with Section 23000) of the Business and Professions Code at 2:01 a.m. on July 15, 1991. On or before August 31, 1991, each person subject to the tax imposed by this section shall prepare and file with the State Board of Equalization, on a form prescribed by the board, a return showing the amount of units of beer, wine, sparkling hard cider, and distilled spirits possessed by him or her at 2:01 a.m. on July 15, 1991, that are subject to the tax imposed by this section, and any other information the board deems necessary for the proper administration of this

chapter. The taxpayer shall deliver the return, together with a remittance of the amount of tax due, to the office of the board on or before August 31, 1991.

SEC. 13. Section 8 of Assembly Bill 758 of the 1991–92 Regular Session is amended to read:

Sec. 8. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect and shall be applied with respect to motor vehicle license fees for any original registration occurring on or after August 1, 1991, and for any renewal of registration with an expiration date of August 1, 1991, or an expiration date thereafter. However, Section 1 of this act shall become operative on August 1, 1991.

SEC. 14. Section 20 of Assembly Bill 2181 of the 1991–92 Regular Session is amended to read:

Sec. 20. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 14, 15, and 18 of this act shall become operative on July 1, 1991, and Sections 1 to 13, inclusive, of this act and Sections 16 and 17 of this act shall become operative on July 15, 1991, and shall apply to sales and purchases of tangible personal property made on and after July 15, 1991.

SEC. 15. Sections 1 to 10, inclusive, and Section 14 of this act shall become operative only if Assembly Bill No. 2181 of the 1991–92 Regular Session is chaptered before this act is chaptered and AB 2181, among other things, amends Sections 6051, 6201, 6359, 6359.6, and 6362 of, and adds Section 6051.2, 6051.5, 6201.2, 6201.5, and 6376.1 to, the Revenue and Taxation Code.

SEC. 16. Sections 11 and 12 of this act shall become operative only if Assembly Bill 30 of the 1991–92 Regular Session is chaptered before this act is chaptered and AB 30 adds Sections 32220 and 32221 to the Revenue and Taxation Code.

SEC. 17. Section 13 of this act shall become operative only if Assembly Bill No. 758 of the 1991–92 Regular Session is chaptered before this act is chaptered.

SEC. 18. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 19. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 89

An act to amend and repeal Sections 1157 and 1157.5 of, and to add Sections 209 and 1157.1 to, the Health and Safety Code, and to amend Sections 4006, 4008, 4012, 4017, 4030, 4031, 4040, 4042, 4050, 4070, 4071, 4075, 4078, 4200, 5402, 5600, 5601, 5602, 5608, 5615, 5616, 5622, 5657, 5681, 5682, 5683, 5688.6, 5690, 5691, 5750, 5750.1, and 5751 of, to amend the heading of Article 5 (commencing with Section 4070) of Chapter 2 of, the heading of Chapter 3 (commencing with Section 4075) of, Part 1 of Division 4 of, and the heading of Chapter 2 (commencing with Section 5650) of Part 2 of Division 5 of, to amend and renumber Sections 5678, 5678.1, 5678.2, 5678.3, 5678.5, 5678.6, 5693, 5694, 5696, and 5697.5 of, to amend and renumber the heading of Chapter 2.55 (commencing with Section 5678) of, the heading of Chapter 2.6 (commencing with Section 5680) of, the heading of Chapter 2.7 (commencing with Section 5690) of, and the heading of Chapter 2.8 (commencing with Section 5697) of, Part 2 of Division 5 of, to amend and repeal Sections 5604, 5604.1, 5604.2, 5604.3, 5604.5, 5605, 5605.1, 5605.2, 5605.4, 5757, 5758, 5759, 5760, 5761, 5762, 5763, 5764, 5766, 5766.1, 5766.2, and 5767 of, to add Sections 4033, 4043, 4044, 4045, 4051, 4052, 4109.5, 5600.2, 5600.3, 5600.35, 5610, 5623.5, 5650.5, 5664.5, 5665, 5666, and 16720 to, to add an article heading immediately preceding Section 4075 of, to add Article 1 (commencing with Section 4074) to, Article 3 (commencing with Section 4080) to, Article 4 (commencing with Section 4090) to, and Article 5 (commencing with Section 4094) to, Chapter 3 of Part 1 of Division 4 of, to add Article 4 (commencing with Section 5694) to, Article 6 (commencing with Section 5695) to, Article 8 (commencing with Section 5698) to, Chapter 2.5 of Part 2 of Division 5 of, to add Chapter 4 (commencing with Section 4330) to Part 2 of Division 4 of, to add Chapter 2.5 (commencing with Section 5670) to Part 2 of Division 5 of, to add Part 3 (commencing with Section 4340) to Division 4 of, to add Part 4 (commencing with Section 5850), Part 5 (commencing with Section 5900) to Division 5 of, and to add Part 4.6 (commencing with Section 16800) to, and to add Chapter 6 (commencing with Section 17600) to Part 5 of Division 9 of, to add and repeal Section 5664.5 of, to repeal Sections 4002, 4003, 4005.2, 4005.3, 4012.4, 4012.6, 4013, 4014, 4014.5, 4015, 4018, 4019, 4072, 4073, 4077, 5401, 5402.1, 5404.1, 5405, 5407, 5603, 5609.5, 5614, 5615.5, 5619, 5624, 5650.1, 5651.1, 5651.3, 5651.7, 5652, 5656, 5684, 5687, 5687.5, 5688, 5688.5, 5688.7, 5697, 5751.2, 5751.3, 5752, 5753, and 5754 of, to repeal the heading of Article 1 (commencing with Section 5697) of Chapter 2.8 of Part 2 of Division 5 of, to repeal Article 4 (commencing with Section 4060) of Chapter 2 of Part 1 of Division 4 of, to repeal Article 2 (commencing with Section 5698) of Chapter 2.8 of Part 2 of Division 5 of, to repeal Chapter 5 (commencing with Section 4090) of Part 1 of Division 4 of, to repeal Chapter 5 (commencing with Section 5450) of, and Chapter 6 (commencing with Section 5475) of, Chapter 6.5 (commencing with Section 5560) of, Chapter 6.6 (commencing with Section 5564) of, Chapter 6.8

(commencing with Section 5565.10) of, and Chapter 9 (commencing with Section 5590) of Part 1 of, to repeal Chapter 2.5 (commencing with Section 5675) of, Chapter 2.6 (commencing with Section 5680) of, Chapter 2.9 (commencing with Section 5699.10) of, Chapter 3.1 (commencing with Section 5725) of, and Chapter 4.1 (commencing with Section 5775) of, Part 2 of Division 5 of, to repeal and add Sections 4005.1, 4076, 5403, 5600.1, 5600.4, 5600.5, 5600.6, 5600.7, 5600.9, 5611, 5612, 5613, 5650, 5651, 5651.2, 5651.5, 5652.5, 5664, 5686, and 5692 of, and to repeal and add Chapter 3 (commencing with Section 5700) of Part 2 of Division 5 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 209 is added to the Health and Safety Code, to read:

209. (a) The director shall conduct a comprehensive review of the statutes governing the protection of the public health, as principally embodied in this code. The review shall be conducted by the director in cooperation with county representatives and the California Conference of Local Health Officers and shall produce the following:

(1) A list of those sections of law that should be deleted due to ambiguity, conflict with other statutes, inappropriateness, or obsolescence.

(2) A reorganization by chapter and section for all public health laws.

(3) Recommendations regarding new or expanded legislation that should be added to balance or provide equity, avoid conflict, or meet defined needs.

(4) A process to provide continuous review of public health statutes and regulations to avoid obsolescence and identify need for new legislation.

(b) A report shall be submitted to the Legislature at the conclusion of the review, but no later than December 31, 1992. The report shall address the objectives of the review, specified in subdivision (a) and shall be jointly submitted by the director, county representatives, and the California Conference of Local Health Officers, with addendums as appropriate to further explain the recommendations of any party.

SEC. 1.2. Section 1157 of the Health and Safety Code is amended to read:

1157. (a) In lieu of any other provisions of this chapter, upon request of the board of supervisors of any county of less than 40,000 population and upon the appropriation for public health purposes by

such county of a sum of not less than fifty-five cents ($0.55) per capita for the total county population, the State Department of Health Services may organize and operate a local public health service in such county. The State Department of Health Services may conduct such local public health service either directly, or by contract with other agencies, or by some combination of these methods as may be agreed upon by the State Department of Health Services and the board of supervisors of the county concerned. The creation of a county board of public health or a similar local advisory group shall be at the discretion of the board of supervisors. The state financial assistance which is appropriated for public health services in counties which have not qualified or do not elect to qualify for such funds under other provisions of this chapter, is hereby made available to the State Department of Health Services for such purposes. Funds expended pursuant to this section shall be in accordance with law regarding expenditures of money appropriated out of the State Treasury, including those in the Budget Act and any applicable provisions of the Government Code.

(b) This section shall remain operative with respect to the 1990–91 fiscal year and prior fiscal years and shall not be operative for the 1991–92 fiscal year and fiscal years thereafter.

(c) 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. 1.3. Section 1157.1 is added to the Health and Safety Code, to read:

1157.1. (a) (1) The board of supervisors of a county with a population of less than 40,000, may enter into a contract with the department and the department, may enter into a contract with that county under which the department may organize and operate a local public health service in that county.

(2) Notwithstanding paragraph (1), only those counties that contracted with the department pursuant to Section 1157 in the 1990–91 fiscal year may contract with the department in the 1991–92 fiscal year and the amount of county funding established in the contracts for the 1991–92 fiscal year shall be at least equal to the value of the services provided in the 1990–91 fiscal year.

(3) The department may conduct the local public health service either directly, or by contract with other agencies, or by some combination of these methods as may be agreed upon by the department and the board of supervisors of the county concerned.

(4) The creation of a county board of public health or similar local advisory group shall be at the discretion of the board of supervisors.

(b) Any county which proposes to contract with the department pursuant to this section in the 1992–93 fiscal year and each fiscal year thereafter shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than March 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the

department. A county may withdraw this notice no later than May 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department. If a county fails to withdraw its notice by this date, it shall be responsible for any and all necessary costs incurred by the department in providing or preparing to provide public health services in that county.

(c) A county contracting with the department pursuant to this section shall not be relieved of its public health care obligation under Section 450.

(d) (1) Any county which elects to contract with the department pursuant to this section shall pay, by the 15th of each month, the agreed upon contract amount.

(2) If a county does not make the agreed monthly payment, the department may terminate the county's participation in the program.

(e) The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available for the program in any fiscal year.

(f) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) The state shall not incur any liability except as specified in this section.

(h) This section shall become operative July 1, 1991.

SEC. 1.4. Section 1157.5 of the Health and Safety Code is amended to read:

1157.5. (a) Upon request of the board of supervisors of any county which received public health services or funding, or both, during the fiscal year 1979–80 pursuant to Section 1157, the State Department of Health Services shall transfer the dollar value of such services or funding, or both, as an allocation to the county pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code. For purposes of this section, the dollar value of such services or funding, or both, shall include the direct and indirect costs appropriated to the State Department of Health Services to provide public health services to the county pursuant to Section 1157 for the fiscal year preceding the effective date of the request to transfer funds, less any funds allocated from appropriations for child health and disability prevention programs as described in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of this division or for family planning services as described in Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code. Indirect costs subject to this section shall be limited to 17 percent of total personal services costs involved in the direct provision of services.

(b) This section shall remain operative with respect to the 1990–91

fiscal year and prior fiscal years and shall not be operative for the 1991–92 fiscal year and fiscal years thereafter.

(c) 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. 1.5. Section 4002 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 4003 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 4005.1 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 4005.1 is added to the Welfare and Institutions Code, to read:

4005.1. The department may adopt and enforce rules and regulations necessary to carry out its duties under this division.

SEC. 5. Section 4005.2 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 4005.3 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 4006 of the Welfare and Institutions Code is amended to read:

4006. With the approval of the Department of Finance and for use in the furtherance of the work of the State Department of Mental Health, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in the scientific, educational, charitable, or mental health fields.

SEC. 8. Section 4008 of the Welfare and Institutions Code is amended to read:

4008. (a) The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

(b) For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for officers and employees of the department for which these officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

(1) Attending meetings of any national or regional association or organization having as its principal purpose the study of matters relating to the care and treatment of mentally ill persons.

(2) Conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or

management.

(3) Obtaining information from organizations, associations, or persons described in paragraphs (1) and (2) which would be useful in the conduct of the activities of the State Department of Mental Health.

SEC. 9. Section 4012 of the Welfare and Institutions Code is amended to read:

4012. The State Department of Mental Health may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental disorder.

(b) Upon request, advise all public officers, organizations and agencies interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental health facilities throughout the state.

(d) Coordinate state activities involving other departments whose actions affect mentally ill persons.

(e) Coordinate with, and provide information to, other states and national organizations, on issues involving mental health.

SEC. 10. Section 4012.4 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 4012.6 of the Welfare and Institutions Code is repealed.

SEC. 12. Section 4013 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 4014 of the Welfare and Institutions Code is repealed.

SEC. 14. Section 4014.5 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 4015 of the Welfare and Institutions Code is repealed.

SEC. 16. Section 4017 of the Welfare and Institutions Code is amended to read:

4017. (a) The department may distribute to a county or combination of counties acting jointly resources described in Part 2 (commencing with Section 5600) of Division 5, pursuant to Section 5401.

(b) The department may contract with a county or combination of counties for services described in this division and Division 5 (commencing with Section 5000), to the extent that those services are funded directly by the department.

SEC. 17. Section 4018 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 4019 of the Welfare and Institutions Code is repealed.

SEC. 19. Section 4030 of the Welfare and Institutions Code is amended to read:

4030. The Director of Mental Health shall organize appropriate staff of the department to ensure implementation of the planning,

research, evaluation, technical assistance, and quality assurance responsibilities set forth in this chapter.

SEC. 20. Section 4031 of the Welfare and Institutions Code is amended to read:

4031. The State Department of Mental Health shall, to the extent resources are available, do all of the following:

(a) Conduct, sponsor, coordinate, and disseminate results of research and evaluation directed to the public policy issues entailed in the selection of resource utilization and service delivery in the state.

(b) Make available technical assistance to local mental health programs incorporating the results of research, evaluation, and quality assurance to local mental health programs.

(c) Implement a system of required performance reporting by local mental health programs.

(d) Perform any other activities useful to improving and maintaining the quality of state mental hospital and community mental health programs.

SEC. 21. Section 4033 is added to the Welfare and Institutions Code, to read:

4033. The State Department of Mental Health shall, to the extent resources are available, comply with federal planning requirements. The department shall update and issue a state plan, which may also be any federally required state service plan, so that citizens may be informed regarding the implementation of, and long-range goals for, programs to serve mentally ill persons in the state. The department shall gather information from counties necessary to comply with this section.

SEC. 22. Section 4040 of the Welfare and Institutions Code is amended to read:

4040. The State Department of Mental Health may conduct, or contract for, research or evaluation studies which have application to policy and management issues. In selecting areas for study the department shall be guided by the information needs of state and local policymakers and managers, and suggestions from the California Conference of Local Mental Health Directors.

SEC. 23. Section 4042 of the Welfare and Institutions Code is amended to read:

4042. The department shall cooperate and coordinate with other state and local agencies engaged in research and evaluation studies. Effort shall be made to coordinate with research, evaluation, and demonstration efforts of local mental health programs, state hospitals serving the mentally disordered, the Department of Rehabilitation, the State Department of Alcohol and Drug Programs, the State Department of Developmental Services, the State Department of Health Services, universities, and other special projects conducted or contracted for by the State Department of Mental Health.

SEC. 24. Section 4043 is added to the Welfare and Institutions Code, to read:

4043. (a) It is the intent of the Legislature that the department provide leadership in the establishment and funding of mental health research projects. The projects shall lead to better understanding of the etiology of serious mental illness and the development of treatment alternatives necessary to meet the needs of the citizens of this state.

(b) The director shall appoint a Mental Health Research Advisory Committee. The committee shall consult with program administrators, providers, consumers, families, and research scientists. The committee shall advise and assist the director in establishing research priorities and in other research related activities as appropriate.

SEC. 25. Section 4044 is added to the Welfare and Institutions Code, to read:

4044. Research performed pursuant to this chapter shall have as a priority serious mental disorders. Research shall be conducted in, or in collaboration with, state or local mental health program facilities that serve public needs. In order to preserve continuity, research programs may be funded for up to five years depending upon the nature of the project and availability of funds.

SEC. 26. Section 4045 is added to the Welfare and Institutions Code, to read:

4045. In order to improve the quality of mental health care in this state, a portion of the funding for research pursuant to this chapter shall be used to provide technical advice, consultation, and education on diagnosis and treatment within the public mental health system upon request of a county.

SEC. 27. Section 4050 of the Welfare and Institutions Code is amended to read:

4050. The State Department of Mental Health shall make available technical assistance, through its own staff, or by contract, to county mental health programs and other local mental health agencies in the program operations of research, evaluation, demonstration, or quality assurance projects.

SEC. 28. Section 4051 is added to the Welfare and Institutions Code, to read:

4051. The State Department of Mental Health shall, to the extent resources are available, provide program development guidelines, evaluation models, and operational assistance on all aspects of services to mentally ill persons of all ages. These services include, but are not limited to, the following:

(a) Self-help programs.
(b) Housing development.
(c) Disaster preparation.
(d) Vocational services.
(e) Regional programs.
(f) Multiple diagnosis programs.

SEC. 29. Section 4052 is added to the Welfare and Institutions Code, to read:

4052. The State Department of Mental Health shall, to the extent resources are available, provide training in performance standards, model programs, cultural competency, and program development.

SEC. 30. Article 4 (commencing with Section 4060) of Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions Code is repealed.

SEC. 31. The heading of Article 5 (commencing with Section 4070) of Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions Code is amended to read:

Article 4. Medi-Cal Quality Assurance

SEC. 32. Section 4070 of the Welfare and Institutions Code is amended to read:

4070. (a) The State Department of Mental Health shall develop a quality assurance program to govern the delivery of Short-Doyle Medi-Cal services, in order to assure quality patient care based on community standards of practice.

(b) The department shall issue standards and guidelines for local quality assurance activities. These standards and guidelines shall be reviewed and revised in consultation with the Conference of Local Mental Health Directors. The standards and guidelines shall be based on federal medicaid requirements.

(c) The standards and guidelines developed by the department shall reflect the special problems that small rural counties have in undertaking comprehensive quality assurance systems.

SEC. 33. Section 4071 of the Welfare and Institutions Code is amended to read:

4071. The department shall approve each local program's initial quality assurance plan, and shall thereafter, review and approve each program's Short-Doyle Medi-Cal quality assurance plan annually.

SEC. 34. Section 4072 of the Welfare and Institutions Code is repealed.

SEC. 35. Section 4073 of the Welfare and Institutions Code is repealed.

SEC. 36. The heading of Chapter 3 (commencing with Section 4075) of Part 1 of Division 4 of the Welfare and Institutions Code is amended to read:

CHAPTER 3. FACILITY LICENSING, PROGRAM CERTIFICATION, AND RATESETTING

SEC. 37. Article 1 (commencing with Section 4074) is added to Chapter 3 of Part 1 of Division 4 of the Welfare and Institutions Code, to read:

Article 1. Licensing and Ratesetting Assessment

4074. To the extent resources are available, the department shall utilize state and federal laws, research findings, and information collected for county programs to assess the need for licensing and ratesetting activities statewide. County competition, including practices which supplement rates to ensure access, are an indicator of the need for revised ratesetting activities.

SEC. 38. A heading is added immediately preceding Section 4075 of the Welfare and Institutions Code, to read:

Article 2. Private Residential Care Facilities

SEC. 39. Section 4075 of the Welfare and Institutions Code is amended to read:

4075. The department shall establish and maintain an equitable system of payment for the special needs of mentally disordered persons in private residential care facilities for the mentally disabled as follows:

(a) The department shall establish the rates of payment which shall be based on the functional ability and programmatic needs of clients. The department shall establish a standardized assessment tool and client monitoring system for counties to use in determining the functional ability and programmatic needs of mentally disordered clients pursuant to this chapter.

(b) The department shall adopt regulations necessary to establish eligibility criteria for private residential care facilities, including, but not limited to, training and educational requirements for facility operators and staff and ability to meet specified special needs of clients.

(c) The department shall establish rates annually. These rates shall include, but not be limited to, each of the cost elements in this section as follows:

(1) Rates established for all facilities shall include an adequate amount to care for basic living needs of a mentally disordered person. "Basic living needs" are defined to include housing, including shelter, utilities, and furnishings; food; and personal care. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the department using the best available estimating methods.

(2) To the extent applicable, rates established for facilities shall include a reasonable amount for unallocated services. These costs shall be determined using generally accepted accounting principles. "Unallocated services," for the purposes of this section, means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition

to mentally disordered persons, unallocated services expenses shall be reimbursed under this section, only for the proportion of the costs associated with the care of mentally disordered persons.

(3) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of mandated capital improvements and equipment as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required the remodeling or equipment as a condition for the use of the facility as a provider of care to mentally disordered persons.

(4) To the extent applicable, rates established for all facilities shall include as a factor an amount to reflect differences in the cost of living for different geographic areas in the state.

(5) Rates established for facilities shall include an amount for supervision where the functional ability or programmatic needs of residents require augmented supervisory staff.

(6) Rates of payment for private residential care facilities shall be established in such ways as to ensure the maximum utilization of all federal and other sources of funding, to which mentally disordered persons are legally entitled, prior to the commitment of state funds for those purposes.

(d) In no case shall the rates established under this section be less than the rates paid for equivalent categories of regional center clients which were in effect on July 1, 1985.

(e) County and state administrative costs shall be separately identified from the rates established by the department under this section.

SEC. 40. Section 4076 of the Welfare and Institutions Code is repealed.

SEC. 41. Section 4076 is added to the Welfare and Institutions Code, to read:

4076. Counties which contract with private residential care facilities for additional services for mentally disabled persons involving payment of supplemental rates shall utilize the payment rate system and facility guidelines for residential care facilities established pursuant to this chapter.

SEC. 42. Section 4077 of the Welfare and Institutions Code is repealed.

SEC. 43. Section 4078 of the Welfare and Institutions Code is amended to read:

4078. Facilities funded by contract for supplemental rates in accordance with this chapter shall be licensed under existing licensing categories, including provisional licenses.

SEC. 44. Article 3 (commencing with Section 4080) is added to Chapter 3 of Division 4 of the Welfare and Institutions Code, to read:

Article 3. Psychiatric Health Facilities

4080. (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 the facility and a description of the services to be provided. The local mental health director shall then submit to the governing body the explanation and description. The governing body, upon its approval, may submit the application to the State Department of Mental Health.

(2) Other organizations that seek to apply for licensure and do not intend to use any 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 the 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 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 services.
(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.
(T) Linguistic access and cultural competence.

(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 this section.

(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 75 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 or 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.

SEC. 45. Chapter 5 (commencing with Section 4090) of Part 1 of Division 4 of the Welfare and Institutions Code is repealed.

SEC. 46. Article 4 (commencing with Section 4090) is added to Chapter 3 of Part 1 of Division 4 of the Welfare and Institutions Code, to read:

Article 4. Social Rehabilitation Facilities and Community Residential Treatment Programs

4090. (a) The State Department of Mental Health shall establish, by regulation, standards for the programs listed in Chapter 2.5 (commencing with Section 5670) of Part 2 of Division 5. These standards shall also be applied by the department to any facility licensed as a social rehabilitation facility pursuant to paragraph (7) of subdivision (a) of Section 1502 of the Health and Safety Code.

(b) In establishing the standards required by this section, the department shall not establish standards which in themselves impose any new or increased costs on the programs or facilities affected by the standards.

4091. Nothing in Section 5458 limits the authority of the State Department of Mental Health to delegate the evaluation and enforcement of the program standards to a county mental health program when a licensed social rehabilitation facility has a contractual relationship with a county mental health program and the county has requested the delegation.

SEC. 47. Article 5 (commencing with Section 4094) is added to Chapter 3 of Part 1 of Division 4 of the Welfare and Institutions Code, to read:

Article 5. Programs for Seriously Emotionally Disturbed Children and Court Wards and Dependents

4094. (a) The State Department of Mental Health shall establish, by regulation, program standards for any facility licensed as a community treatment facility providing mental health treatment services to seriously emotionally disturbed children, as defined in Section 5699, pursuant to subdivision (a) of Section 1502 of the Health and Safety Code. This section shall apply only to community treatment facilities described in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Mental Health shall certify that a facility requesting licensure as a community treatment facility pursuant to Section 1502 of the Health and Safety Code is in

compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Mental Health shall deny a certification to a facility or decertify a facility licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for treatment staffing and for the use of psychotropic medication, discipline, and restraint in the facilities.

(e) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously.

(f) The sum of forty-five thousand dollars ($45,000) is hereby appropriated annually from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

4095. (a) It is the intent of the Legislature that essential and culturally relevant mental health assessment, case management, and treatment services be available to court wards and dependents placed out-of-home or who are at risk of requiring out-of-home care. This can be best achieved at the community level through the active collaboration of county social service, probation, education, mental health agencies, and foster care providers.

(b) Therefore, using the Children's Mental Health Services Act (Part 4 (commencing with Section 5850) of Division 5) as a guideline, the State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors, the State Department of Social Services, the County Welfare Directors Association, the Chief Probation Officer's Association, county alcohol and drug program administrators, and foster care providers, shall do all of the following:

(1) By July 1, 1991, develop an individualized mental health treatment needs assessment protocol for court wards and dependents.

(2) By October 1, 1992, establish and maintain a special system of per child payments for supplemental mental health services rendered to court wards and dependents pursuant to this section. This payment system shall ensure that children are served according to state-level priorities, and that similar children are served similarly statewide, to the extent of appropriations available through the annual Budget Act to implement this section. The payment system shall encourage utilization of other resources where possible, including Medi-Cal reimbursement. It is the intent of the Legislature that the payment system shall be flexible so that services may be provided in the most appropriate setting and in the most cost-effective manner.

(3) By October 1, 1992, the department shall, for the purposes of implementing this section, establish guidelines for rates, payment, and subsets of target populations to be served, for supplemental mental health services rendered to court wards and dependents. These guidelines shall include, but not be limited to, data collection, cost reporting, and types of placement resources receiving county mental health funds. These guidelines shall remain in effect until the special system of payments is established, in accordance with paragraph (2).

(4) By January 1, 1992, establish, by regulation, all of the following:

(A) Definitions of priority ranking of subsets of the court wards and dependents target population.

(B) Definitions of priority supplemental services, including, but not limited to, services defined in Title IX (commencing with Section 7030) of the California Code of Regulations as of January 1, 1992, and family therapy, prevocational services, crisis support, family support, therapeutic respite activities, and therapeutic milieu activities, to be available to the target population.

(C) A certification procedure, to be employed by the local mental health director, which assures that only mental health services approved by the local mental health director shall be eligible for reimbursement under this section.

(5) Require that interagency collaboration and program services are structured in a manner which will facilitate future implementation of the goals of the Children's Mental Health Services Act. Components shall be added to the plans and contracts which specifically address the procedures to be implemented by the county in meeting the provisions of this section. The components are to be developed in collaboration with the county social services and probation departments. Plans and contracts submitted for department approval shall document that the procedures to be implemented in compliance with this section have been approved by the county social services department and the county probation department pursuant to an interagency agreement.

(c) (1) Only those individuals within the target population as defined in regulation and determined to be eligible for services as a result of a mental health treatment needs assessment may receive services pursuant to this section.

(2) Allocation of funds appropriated for the purposes of this section shall be based on the number of wards and dependents identified pursuant to paragraphs (3) and (4) of subdivision (b).

(3) The counties shall be held harmless for failure to provide assessment and treatment services to those children identified in need of services for whom there is no funding.

(d) It is the intent of the Legislature to limit supplemental mental health treatment rates for the target population of this section to rates established pursuant to paragraphs (2), (3), and (4) of subdivision (b), effective October 1, 1992, and to reduce the impact of competition for scarce treatment resources on the cost and availability of care. The State Department of Mental Health, in consultation with the State Department of Social Services and appropriate organizations, including organizations representing service providers, shall develop a plan to accomplish this intent that addresses the access to, and availability of, mental health treatment for the target population. This plan shall be submitted to the Legislature by October 1, 1992.

(e) The department shall annually report to the Legislature on the service populations provided mental health treatment services pursuant to this section, the types and costs of services provided, and the number of children identified in need of treatment services who did not receive the services.

SEC. 48. Section 4109.5 is added to the Welfare and Institutions Code, to read:

4109.5. (a) Whenever the department proposes the closure of a state hospital, it shall submit as part of the Governor's proposed budget to the Legislature a complete program, to be developed jointly by the State Department of Mental Health and the county in which the state hospital is located, for absorbing as many of the staff of the hospital into the local mental health programs as may be needed by the county. Those programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians for treatment of the mentally disordered, developmentally disabled, drug abusers, and alcoholics.

(b) The Director of Mental Health shall submit all plans for the closure of state hospitals as a report with the department's budget. This report shall include all of the following:

(1) The land and buildings affected.

(2) The number of patients affected.

(3) Alternative plans for patients presently in the facilities.

(4) Alternative plans for patients who would have been served by the facility assuming it was not closed.

(5) A joint statement of the impact of the closure by the

department and affected local treatment programs.

(c) These plans may be submitted to the Legislature until April 1 of each budget year. Any plans submitted after that date shall not be considered until the fiscal year following that in which it is being considered.

(d) The plan shall not be placed into effect unless the Legislature specifically approves the plan.

SEC. 49. Section 4200 of the Welfare and Institutions Code is amended to read:

4200. (a) Each state hospital under the jurisdiction of the State Department of Mental Health shall have a hospital advisory board of eight members appointed by the Governor from a list of nominations submitted to him or her by the boards of supervisors of counties within each hospital's designated service area. If a state hospital provides services for both the mentally disordered and the developmentally disabled, there shall be a separate advisory board for the program provided the mentally disordered and a separate board for the program provided the developmentally disabled. To the extent feasible, an advisory board serving a hospital for the mentally disordered shall consist of one member who has been a patient in a state mental hospital and two members shall be the parents, spouse, siblings, or adult children of persons who are or have been patients in a state mental hospital, three representatives of different professional disciplines selected from primary user counties for patients under Part 1 (commencing with Section 5000) of Division 5, and two representatives of the general public who have demonstrated an interest in services to the mentally disordered.

(b) Of the members first appointed after the operative date of the amendments made to this section during the 1975–76 legislative session, one shall be appointed for a term of two years, and one for three years. Thereafter, each appointment shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

(c) Notwithstanding any provision of this section, members serving on the hospital advisory board on the operative date of the amendments made to this section during the 1987–88 legislative session, may continue to serve on the board until the expiration of their term. The Legislature intends that changes in the composition of the board required by these amendments apply to future vacancies on the board.

SEC. 50. Chapter 4 (commencing with Section 4330) is added to Part 2 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 4. COUNTY USE OF STATE HOSPITALS

4330. The State Department of Mental Health shall be reimbursed for use of state hospital beds by counties pursuant to Part 1 (commencing with Section 5000) of Division 5 as follows:

(a) (1) For the 1991–92 fiscal year, the department shall receive reimbursement in accordance with subdivision (b) or Section 17601. This total may be adjusted to reflect any and all amounts previously unallocated or held in reserve for use by small counties and any adjustments made pursuant to Chapter 1341 of the Statutes of 1990.

(2) It is the intent of the Legislature to encourage and allow greater flexibility with respect to resources during the first transitional year, and, to this end, the Director of Mental Health may implement proposals for purchase in or purchase out of, state hospital beds which were proposed in accordance with Chapter 1341 of the Statutes of 1990.

(3) Funds and bed days historically allocated to small counties shall be allocated to counties with no allocation.

(b) Commencing with the 1992–93 fiscal year and each fiscal year thereafter, the department shall be reimbursed in accordance with the contracts entered into pursuant to Section 4331.

(c) The rate of reimbursement which shall apply each fiscal year shall be determined by the department and shall include all actual costs determined by hospital and by type of service provided. Costs shall not include costs incurred for capital outlay relating to existing facilities or capacity, which shall remain the responsibility of the state. Costs for capital outlay related to future expansions or construction of new facilities requested by any county or cost related to innovative arrangements under Section 4355 shall be a cost to the county unless the expansion, construction or innovative arrangements are determined to be of statewide benefit.

4331. (a) No later than July 1, 1992, and each year commencing July 1 thereafter, each county acting singly or in combination with other counties shall contract with the department for the number and types of state hospital beds that the department will make available to the county or counties during the fiscal year. Each county contract shall be subject to the provisions of this chapter, as well as other applicable provisions of law, but shall not be subject to the Public Contract Code and shall not be subject to review and approval by the Department of General Services.

(b) (1) No later than October 1, 1991, each county acting singly or in combination with other counties, shall notify the department in writing as to the number and type of state hospital beds the county or counties will contract for with the state in the 1992–93 fiscal year.

(2) No later than July 1, 1992, and each year commencing July 1 thereafter, each county acting singly or in combination with other counties shall give the department preliminary written notification of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year. Counties may include in their notification a request for additional beds beyond their previous year's contract.

(3) No later than January 1, 1992, and each year commencing January 1 thereafter, each county acting singly or in combination with other counties shall give the department final written

notifications of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year.

(c) There shall be no increase in the number of beds provided to a county or group of counties during a fiscal year unless the contract between the department and that county or group of counties is amended by mutual agreement. Any significant change in services requested by a county shall require amendment of the contract.

(d) If a county or group of counties has not contracted with the department by July 1 of any given year, the number of beds to be provided that fiscal year shall be the same as the number provided the previous fiscal year, and the rate of reimbursement that shall be paid to the department shall be at the amount set by the department for the fiscal year commencing July 1 of that year.

4332. (a) Contracts entered into pursuant to Section 4331 shall do all of the following:

(1) Specify the number of beds to be provided.

(2) Specify the rate or rates of reimbursement.

(3) Set forth the general type of services requested by the county.

(4) Specify procedures for admission and discharge.

(5) Include any other pertinent terms as agreed to by the department and the county.

(b) The department shall consult with the counties regarding any changes in state hospital facilities or operations which would significantly impact access to care or quality of care, or significantly increase costs.

(c) Beginning with the 1992–93 fiscal year and annually thereafter, the department shall make available to counties upon request the basis upon which its rates have been set, including any indirect cost allocation formulas.

4333. (a) In the event a county or counties elect to reduce their state hospital resources, beginning July 1, 1992, systemwide state hospital net bed reduction in any one year may not exceed 10 percent of the total for patients under Part 1 (commencing with Section 5000) of Division 5 in the prior year without the specific approval of the Director of Mental Health.

(b) Net bed reductions at any one hospital may not exceed 10 percent of its contracted beds without specific approval of the Director of Mental Health.

(c) If the proposed reduction in any year exceeds the maximum permitted amount, the department, with the assistance of counties, shall make every effort to contract for beds with other purchasers.

(d) If total county requests for bed reduction in any one year or at any one facility still exceed the amount of reduction allowed, each county's share of the reduction shall be determined by taking the ratio of its contracted beds to the total contracted and multiplying this by the total beds permitted to be reduced.

(e) (1) Small counties shall be exempted from the limitations of this section and shall have the amount of their reduction determined

by the Director of Mental Health.

(2) For purposes of this chapter, "small counties" means counties with a population of 125,000 or less based on the most recent available estimates of population data determined by the Population Research Unit of the Department of Finance.

(f) It is the intent of the Legislature that counties have maximum flexibility in planning the use of these resources, which includes making full use of existing facilities and that the Director of Mental Health enforce his or her exemption authority in a manner consistent with this intent. Because freed-up beds may be purchased by other counties or may be used for other purposes, it is anticipated that individual county flexibility will be substantially greater than the 10 percent figure described in Section 4353.

(g) Counties may annually contract for state hospital beds as single entities or in combination with other counties. For purposes of this section, small counties, as defined in subdivision (e):

(1) Are encouraged to establish regional authorities to pool their resources to assure their ability to provide the necessary array of services to their mentally ill populations not otherwise available to them on an individual basis.

(2) May receive loans from the General Fund when emergency state hospital beds are needed, not to exceed one year in duration, with interest payable at the same rate as that earned through the Pooled Money Investment Fund. Any interest due may be waived based upon a finding of emergency by the Secretary of Health and Welfare and the Director of Finance.

(h) The department, in consultation with the California Conference of Local Mental Health Directors, affected employee organizations, and other consumer and family organizations, shall make available to the Legislature on an annual basis, beginning May 1, 1992, information assessing the impact of limitations on bed reductions on county flexibility, and the quality of care, efficiency, and effectiveness of state hospital operations.

4334. By July 1, 1992, the State Department of Mental Health, in collaboration with counties, shall do all of the following:

(a) Prepare and publish a catalogue of available state hospital services. The catalogue shall be updated annually.

(b) Develop a process by which a county or group of counties constituting the primary user of a particular hospital may, upon their request individually, or through selected representatives, participate in long-range planning and program development to ensure the provision of appropriate services.

(c) Ensure direct county involvement in admission to, and discharge from, beds contracted for patients under Part 1 (commencing with Section 5000) of Division 5.

4335. Nothing in this chapter is intended to prevent the department from entering into innovative arrangements with counties for delivery of state hospital services. The Director of Mental Health may contract with a county, or group of counties, for

excess state hospital space for purposes of staffing and operating their own program.

SEC. 51. Part 3 (commencing with Section 4340) is added to Division 4 of the Welfare and Institutions Code, to read:

PART 3. DEPARTMENTAL PROGRAM INITIATIVES

CHAPTER 1. SELF-HELP PROGRAMS

4340. The State Department of Mental Health shall maintain a statewide mental health prevention program directed toward a reduction in the need for utilization of the treatment system and the development and strengthening of community support and self-help networks.

CHAPTER 2. HUMAN RESOURCE DEVELOPMENT

4341. (a) In order to ensure the availability of an adequate number of persons from all disciplines necessary to implement appropriate and effective services to severely mentally ill persons of all ages and ethnic groups, the department shall, to the extent resources are available, implement a Human Resources Development Program.

(b) Implementation of the program shall include negotiation with any or all of the following: the University of California, state colleges, community colleges, private universities and colleges, public and private hospitals, and public and private rehabilitation, community care, and treatment providers, to arrange affiliations and contracts for educational and training programs to ensure appropriate numbers of graduates with experience in serving severely mentally ill persons in the most cost-effective programs.

(c) The human resources development effort shall be undertaken with active participation of the California Conference of Local Mental Health Directors, client and family representatives, and professional and academic institutions.

(d) The program shall give particular attention to areas of specific expertise where local programs and state hospitals have difficulty recruiting qualified staff, including programs for forensic persistently severely mentally ill children and youth, and severely mentally ill elderly persons. Specific attention shall be given to ensuring the development of a mental health work force with the necessary bilingual and bicultural skills to deliver effective service to the diverse population of the state.

4341.5. In order to ensure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Mental Health shall, to the extent resources are available, plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and

psychologists with forensic skills, and recommend appropriate incentive measures, such as state scholarships.

CHAPTER 3. PROGRAMS TO REDUCE THE INCIDENCE OF YOUTH SUICIDE

4342. The department shall implement a five-year youth suicide prevention program to develop all of the following:

(a) Research and data collection on youth suicide.

(b) Public education material production and distribution in conjunction with other public agencies and the private sector throughout the state.

(c) Training programs involving students, parents, teachers, school administrators, mental health professionals, local social service agencies, juvenile justice representatives, and others concerned with the problem of youth suicide.

(d) A final evaluation and report to the Governor and Legislature no later than July 1, 1993. It is the intent of the Legislature to expand the youth suicide prevention program to include research and data collection, public education material production and distribution, and training programs to address the needs of California's adult population in need of suicide interventions.

(e) 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 4. PRIMARY PREVENTION PROJECTS

4343. The Legislature recognizes that prevention and early intervention services have long been slighted in the community mental health programs and has identified, as a goal of the Short-Doyle program, the prevention of serious mental disorders and psychological problems. It is the intent of the Legislature to establish a system of school-based primary prevention projects designed for the early detection and prevention of emotional, behavioral, and learning problems in primary grade children with services provided by child aides or unpaid volunteers under the supervision of mental health professionals. The goal of the primary prevention projects is to help young children derive maximum profit from the school experience and, in so doing, prevent later-life problems of school failure, unemployment, delinquency, criminal behavior, and substance abuse.

4344. Primary prevention projects shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts, publicly funded preschool programs, and local mental health programs may implement primary prevention projects with available funds, or may jointly apply to the State Department of Mental Health to be considered for grant projects outlined in this chapter.

4345. The Director of Mental Health shall develop guidelines for primary prevention projects in accordance with the following:

(a) School-based projects shall serve children in grades kindergarten through three.

(b) The projects may serve children beyond grade three who could benefit from the program but the number of children accepted into the program from grades four and above shall not represent more than 15 percent of the total number of children served.

(c) The projects may serve children enrolled in a publicly funded preschool program.

(d) The projects shall serve children referred by either a screening process, a teacher, school-based mental health professionals, other school personnel who have had opportunities to observe children in interpersonal contacts, or parents. If a screening process is utilized, behavior rating scales shall constitute the primary instrument from which referrals to primary prevention projects are made. To a more limited extent, observations of children working on structured tasks and standardized projective tests may also be used.

(e) The projects may include a parent involvement component.

(f) Before acceptance of a child into a primary prevention project, parental consent is required.

4346. (a) Each primary prevention project shall have a core team consisting of school-based mental health professionals, including pupil personnel professionals or local mental health program professionals, or both, a senior aide, and a group of from two to five child aides.

(b) The program-based mental health professionals shall be responsible for accepting referred children into the program, program coordination and supervision of the senior and child aides, assignment of a child to an aide, evaluation of progress, and determination of termination from the program. The mental health professionals shall supervise the scoring and interpretation of screening and assessment test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.

(c) The senior aide shall be responsible for communication among school personnel, the mental health professionals, including pupil personnel professionals, and the child aides and for the administrative functions of scheduling with aides and teachers, arranging case conferences, and maintaining records.

(d) Child aides, under supervision of a mental health professional, shall conduct weekly play sessions with children served in the primary prevention projects. Child aides may be salaried school aides, unpaid volunteers such as students, elderly persons or other persons with time and interest in working with young children, or may be provided stipends to meet expenses.

(e) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary prevention projects. Training shall, at a

minimum, include basic child development, crisis intervention, techniques of nondirective play, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.

4347. School districts or preschool programs submitting joint proposals with local mental health programs for grants under this chapter shall demonstrate a capability for referral to appropriate public and private community services. The referrals shall be made through contacts with families in response to information regarding the need for referral arising from the child aide sessions.

4348. (a) The State Department of Mental Health shall award primary prevention project grants pursuant to a request for proposal consistent with the provisions of this chapter. The grant award shall be administered by the local mental health program.

(b) Prior to dissemination of a request for proposal, the department shall establish a maximum figure for the amount of project funds available per project site and for the number of sites that may be funded per school district or regional area. The department shall be guided in its decisions by the availability of uncommitted funds in the Mental Health Primary Prevention Fund.

(c) Primary prevention project grants shall be funded from funds allocated to the State Department of Mental Health for primary prevention programs in accordance with Section 11489 of the Health and Safety Code.

(d) Upon approving a primary prevention grant, the State Department of Mental Health shall contract with the grant recipient to provide a primary prevention project for a period of three years.

(e) Costs of a primary prevention project shall be financed on a basis of:

(1) Fifty percent from primary prevention project grant funds or a maximum established by the department, whichever is less.

(2) At least 50 percent from a combination of school district or preschool program and local mental health program funds.

(f) The school district or preschool program share may be in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services.

(1) Contributed space to be used for child aide sessions must be comfortable, attractive, and engaging to young children. Small individual rooms are preferable.

(2) Space to be used for group meetings and consultation sessions may also be contributed.

(3) Equipment and materials may be contributed if it includes items that encourage child participation in nondirective play.

(g) The local mental health program share may include either the cost of the mental health professionals as described in subdivision (b) of Section 4346 or the contribution of professional staff to provide case consultation to the child aides and assistance in child aide training.

4349. The State Department of Mental Health shall, on the basis

of applications submitted pursuant to a request for proposal, select recipients of primary prevention project grants based on the following criteria:

(a) Availability of professional and other program staff with related experience and interest in early intervention.

(b) Reasonable evidence of future stability of the program and its personnel.

(c) Representation of a wide range of economic, ethnic, and cultural populations.

(d) Demonstration of strong support by the teaching, pupil services, and administrative personnel at the school or preschool program and by the local mental health program.

(e) Assurance that grants would supplement existing local resources.

4350. (a) The role of the school district or preschool program in each approved project shall be to:

(1) Arrange for mental health professionals based at the project site to supervise project staff and procedures. These persons may be either pupil personnel staff or local mental health program staff.

(2) Recruit and train child aides.

(3) Screen and assess children in accordance with guidelines established by the department.

(4) Provide individual and group play sessions to selected children in accordance with guidelines established by the department.

(5) Provide space and equipment for child aide sessions with children and for staff meetings.

(6) Establish and maintain project records.

(7) Prepare project reports in accordance with guidelines established by the department.

(8) Submit periodic statements of project grant fund expenditures to the local mental health program for reimbursement in accordance with the approved project budget.

(b) The role of the local mental health program in each approved project shall be to:

(1) Administer state project grant funds awarded by the department by contracting with the school district or preschool program to provide a primary prevention project in accordance with this chapter and the joint proposal of the local mental health program and the school district or preschool program as approved by the department.

(2) Contribute professional staff to the project to do both of the following:

(A) Assist the school district or preschool program in the recruiting and initial training of child aides.

(B) Provide ongoing case consultation and training to the child aides at regular intervals at the project site.

(3) Assure access to appropriate mental health treatment services available within the county's program for those children in the

project and their families who require services that are beyond the scope and purposes of the Primary Prevention Project.

(c) The role of the State Department of Mental Health in each approved project shall be to:

(1) Develop a contract with the local mental health program for provision of a primary prevention project in accordance with this chapter and the joint proposal of the local program and school district or preschool program as approved by the department.

(2) Disburse project grant funds to the local program in accordance with terms of the contract.

(3) Conduct visits to each project site at least once during the first year of funding, and thereafter as necessary, in order to determine compliance with this chapter and the contract and to determine training needs of project staff.

(4) Provide for periodic training workshops for project staff.

(5) Establish guidelines for project procedures, screening and assessment of children, records, and reports.

4351. The department shall provide for training of project personnel. Funds for this purpose may be appropriated under Section 11489 of the Health and Safety Code, or through the state budget. Training of project personnel may be contracted out to programs designated by the State Department of Mental Health appropriate to provide these services.

4352. The State Department of Mental Health shall conduct a review of each primary prevention project at least once during the first year of funding, and thereafter as necessary.

The purposes of such reviews are project improvement and compliance with the guidelines set forth in this chapter. The review procedure shall be adequately flexible for application to primary prevention projects of varying sizes and models.

CHAPTER 5. PERSONS WITH ACQUIRED TRAUMATIC BRAIN INJURY

4353. The Legislature finds and declares all of the following:

(a) There is a large population of persons who have suffered traumatic head injuries resulting in significant functional impairment.

(b) Approximately 80 percent of these injuries have occurred as a direct result of motor vehicle accidents.

(c) There is a lack of awareness of the problems associated with head injury resulting in a significant lack of services for persons with head injuries, including, but not limited to, in-home and out-of-home services, respite care, placement programs, counseling, cognitive rehabilitation, transitional living, and vocational rehabilitation services.

(d) Although there are currently a number of different programs attempting to meet the needs of the persons with head injuries, there is no clearly defined ultimate responsibility vested in any single state

agency.

(e) There is no programmatic coordination among agencies to facilitate the provision of a continuing range of services appropriate for persons with traumatic head injuries.

(f) There is a serious gap in postacute care services resulting in incomplete recovery of functional potential.

(g) Due to the problems referred to in this section, the state is not adequately meeting the needs of persons with head injuries enabling them to return to work and to lead productive lives.

4354. For purposes of this chapter, the following definitions shall apply:

(a) "Acquired traumatic brain injury" is an injury that is sustained after birth from an external force to the brain or any of its parts, resulting in psychological, neurological, or anatomical changes in brain functions.

(b) "Department" means the State Department of Mental Health.

(c) "Director" means the Director of Mental Health.

(d) "Supported employment" means an alternative method of providing services which may include prevocational and educational services to individuals who may not qualify for vocational rehabilitation. The following four characteristics 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, including an adequate income level, quality of working life, security, and mobility.

(4) There is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

(e) "Day treatment services" means a goal oriented program of developmental and therapeutic services designed to develop, maintain, increase, or maximize an individual's independent functioning in self-care, physical, cognitive, behavioral, or emotional growth, socialization, communication, education, and prevocational skills.

(f) "Fund" means the Traumatic Brain Injury Fund.

(g) "Structured living arrangement" means a residential setting where there is supervision, support, and training designed to maximize independence.

(h) "Functional assessment" means measuring the level or degree of independence, amount of assistance required, and speed and safety considerations for a variety of categories, including activities of daily living, mobility, communication skills, psychosocial adjustment, and cognitive function.

4355. The department shall establish demonstration projects for

a postacute continuum-of-care model for adults 18 years of age or older with an acquired traumatic brain injury. The projects shall coordinate supported employment services, day treatment services, and a structured living arrangement. The purpose of the projects is to demonstrate the effectiveness of a coordinated service approach which furthers the goal of assisting those persons to attain productive, independent lives which may include paid employment.

4356. (a) The department shall award and administer a maximum of four three-year demonstration projects. Priority shall be given to applicants which have proven experience in providing services to persons with an acquired traumatic brain injury or providing supported employment services to persons with special needs. There shall be at least one demonstration project located in the north half of the state and one in the south half of the state. The department shall award project grants no later than six months after funds for this purpose have been appropriated, using a competitive bidding process. No application shall be considered by the department unless the applicant sets forth in the application the means by which data will be collected for purposes of evaluation pursuant to subdivision (b). All projects shall be operational within two months following the grant award.

(b) The department shall also develop an evaluation and data collection system prior to the initial operative date of the project pursuant to subdivision (a), to assess the effectiveness of these coordinated service models. The department shall report to the Legislature on the progress of the demonstration projects by November 30 of each year in which the projects are operational.

The evaluation shall assess the effectiveness of the pilot projects by doing all of the following:

(1) Comparing the number of persons who achieved supported employment placement, as described in subdivision (d) of Section 5564.1, with the number who would have achieved placement without the assistance of a pilot project. The program shall have as a goal an increase of 30 percent in numbers of persons employed as a result of the program.

(2) Comparing the number of persons who achieved employment compared with the number who would have achieved employment without the assistance of a pilot project. The program shall have as a goal an increase of 30 percent in numbers of persons employed as a result of the program.

(3) Conducting any other evaluative investigation which interested parties, as described in subdivision (c), determine to be appropriate. The program shall have as a goal an increase of 30 percent in the numbers of persons with significant improvement as measured by standard and objective functional assessment independence measures.

(4) The comparisons shall be analyzed to determine if provision of services had a statistically significant impact on rates of employment or supported employment, or on any other objective

which interested parties, as described in subdivision (c), direct the department to measure.

(c) The department shall consult with interested parties to assist with the implementation of this chapter, and specifically with the development of criteria for selection of the projects and development of an evaluation and data collection system. Interested parties shall include, but not be limited to, all of the following:

(1) The California Association of Rehabilitation Facilities.

(2) The California Association for Adult Day Services.

(3) The Southern California Head Injury Foundation.

(4) The Northern California Head Injury Association.

(5) The Coalition of Independent Living Centers.

4357. (a) The projects shall be able to identify the special care needs and behavioral problems of clients and the services shall be designed to meet those needs.

(b) The projects shall match not less than 20 percent of the amount granted. The required match may be cash or in-kind contributions, or a combination of both. In-kind contributions may include, but shall not be limited to, staff and volunteer services.

(c) The projects shall provide at least 51 percent of their services under the grant to individuals who are Medi-Cal eligible or who have no other identified third-party funding source.

(d) The projects shall provide, directly, or by arrangement, a coordinated service model to include all of the following:

(1) Structured living arrangement.

(2) Day treatment services.

(3) Supported employment services.

(e) The projects shall develop and utilize a model which will allow clients to move from intensive day treatment programming or highly structured living arrangements to increased levels of independence or supported employment placement.

(f) The projects shall seek all third-party reimbursements for which clients are eligible. However, grantees may utilize grant dollars for the purchase of nonreimbursed services.

4358. There is hereby created in the State Treasury the Traumatic Brain Injury Fund, the moneys in which may, upon appropriation by the Legislature, be expended for the purposes of this chapter.

4359. This chapter shall remain in effect until January 1, 1993, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

CHAPTER 6. CONDITIONAL RELEASE PROGRAM

4360. (a) The department shall provide care, treatment, and supervision in the community for judicially committed persons. The program established and administered by the department under this chapter to provide these services shall be known as the Conditional Release Program and may be used by the department in accordance

with this section to provide services in the community to other patient populations for which the department has direct responsibility.

(b) The department may provide directly, or through contract with private providers or counties, for these services, including administrative and ancillary services related to the provision of direct services. Subject to approval by the department, a county may provide these services directly, or may contract with private providers, for those services. Those services shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services.

SEC. 51.5. Section 5401 of the Welfare and Institutions Code is repealed.

SEC. 52. Section 5402 of the Welfare and Institutions Code is amended to read:

5402. (a) The State Department of Mental Health shall collect and publish annually quantitative information concerning the operation of this division including the number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day post-certification intensive treatment, the number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in each county.

(b) Each local mental health director, and each facility providing services to persons pursuant to this division, shall provide the department, upon its request, with any information, records, and reports which the department deems necessary for the purposes of this section. The department shall not have access to any patient name identifiers, but shall develop unique patient identifiers that permit development of client-specific cost and outcome measures while protecting confidentiality.

(c) Information published pursuant to this section shall not contain patient name identifiers and shall contain statistical data only.

(d) The department shall make the reports available to medical, legal, and other professional groups involved in the implementation of this division.

SEC. 53. Section 5402.1 of the Welfare and Institutions Code is repealed.

SEC. 54. Section 5403 of the Welfare and Institutions Code is repealed.

SEC. 55. Section 5403 is added to the Welfare and Institutions Code, to read:

5403. (a) From July 1, 1991 to June 30, 1993, inclusive, the California Conference of Local Mental Health Directors shall not be authorized to approve regulations of the department. The impact of

this subdivision on regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(b) The department shall continue to involve the conference in the development of all regulations which affect local mental health programs prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

SEC. 55.5. Section 5404.1 of the Welfare and Institutions Code is repealed.

SEC. 56. Section 5405 of the Welfare and Institutions Code is repealed.

SEC. 57. Section 5407 of the Welfare and Institutions Code is repealed.

SEC. 58. Chapter 5 (commencing with Section 5450) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 59. Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 59.5. Chapter 6.5 (commencing with Section 5560) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 60. Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 61. Chapter 6.8 (commencing with Section 5565.10) of Part 1 of Division 5 is repealed.

SEC. 62. Chapter 9 (commencing with Section 5590) of Part 1 of Division 5 is repealed.

SEC. 63. Section 5600 of the Welfare and Institutions Code is amended to read:

5600. (a) This part shall be known and may be cited as the Bronzan-McCorquodale 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 under the jurisdiction of the state; and to provide a means of allocating mental health funds deposited in the Local Revenue Fund equitably among counties according to community needs.

(b) With the exception of those referring to Short-Doyle Medi-Cal services, any other provisions of law referring to the Short-Doyle Act shall be construed as referring to the Bronzan-McCorquodale Act.

SEC. 64. Section 5600.1 of the Welfare and Institutions Code is repealed.

SEC. 65. Section 5600.1 is added to the Welfare and Institutions Code, to read:

5600.1. The mission of California's mental health system shall be to enable seriously mentally disabled persons of all ages to access services and programs that assist them, in a manner tailored to each individual, to manage their illness, to achieve their own personal goals, and to develop skills and supports leading to a constructive and more satisfying life in the least restrictive available setting.

SEC. 67. Section 5600.2 is added to the Welfare and Institutions Code, to read:

5600.2. To the extent resources are available, public mental health services in this state should be provided to priority target populations in systems of health care that are client-centered, culturally competent, and fully accountable, and which include the following factors:

(a) Priority Target Populations. Persons with serious mental illnesses have severe, disabling conditions that require treatment, and therefore require a high priority for receiving available services.

(b) Systems of Care. The mental health system should develop coordinated, integrated, and effective services in systems of care to meet the unique needs of mentally disabled children and youth, adults, older adults, and special populations.

(c) Client-centered Approach. All services and programs designed for persons with mental disabilities should be client-centered, in recognition of varying individual goals, diverse needs, concerns, strengths, motivations, and disabilities. Persons with mental disabilities:

(1) Retain all the rights, privileges, opportunities, and responsibilities of other citizens unless specifically limited by federal or state law or regulations.

(2) Are the central and deciding figure in all planning for treatment and rehabilitation based on their individual needs to the extent required by law. Planning should also include family members and friends as a source of information and support.

(3) Should be viewed as total persons and members of families and communities. Mental health services should assist clients in returning to constructive and satisfying lifestyles of their choice.

(4) Should receive treatment and rehabilitation in the most appropriate and least restrictive environment, preferably in their own communities.

(5) Should have an individual or team responsible for their support and treatment.

(d) Quality of Service. Qualified individuals should provide client-centered services in environments conducive to clients' well-being.

(e) Community Support. Systems of care should provide community support for individuals with mental disabilities, thereby reducing the need for more intensive treatment services.

(f) Accessibility. Mental health services should be accessible to all consumers on a 24-hour basis through the use of assertive outreach.

(g) Cultural Competence. Services for persons with mental

disabilities should be culturally and ethnically appropriate.

(h) Multiple Disabilities. Mental health services should address the special needs of children and youth, adults, and older adults with dual and multiple disabilities.

(i) Self-help. The mental health system should promote the development and use of self-help groups by individuals with serious mental illnesses so that these groups will be available in all areas of the state.

(j) Local Outcome Measures. Local mental health systems of care should be developed based on client-centered goals evaluated by measurable client outcomes.

(k) State Administration. The State Department of Mental Health should manage its programs in an efficient and cost-effective manner.

(*l*) Research. The mental health system should encourage basic research into the nature and causes of mental illnesses and cooperate with research centers in efforts leading to improved treatment methods, service delivery, and quality of life for mental health clients.

(m) Education on Mental Illness. Consumer and family advocates for mental health should be encouraged to inform the public about the nature of mental illness and the consequent needs of consumers and families. Mental health professional organizations should be encouraged to disseminate the most recent research findings in the treatment and prevention of mental illness.

SEC. 68. Section 5600.3 is added to the Welfare and Institutions Code, to read:

5600.3. To the extent resources are available, the primary goal of use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations identified in the following categories, which shall not be construed as establishing an order of priority:

(a) (1) Seriously emotionally disturbed children or adolescents.

(2) For the purposes of this part, "seriously emotionally disturbed children or adolescents" means minors under the age of 18 years who are both of the following:

(A) A child with a mental disorder identified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders resulting in behavior which is inappropriate to the child's age according to expected developmental norms. This abnormal behavior is persistent, the behavioral symptomology is both severe and frequent, the behavior causes suffering, social restriction, interference with development, and has a negative effect on others to the detriment of the child's development in needed relationships.

(B) A child who is one or more of the following:

(i) A ward or dependent of the court, for whom a petition has been filed pursuant to Sections 300, 601, and 602, and who has been placed out-of-home.

(ii) A special education student, as defined by paragraph (8) of

subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations, who is receiving residential care pursuant to an individualized education program. This section also includes a special education student through age 21 years identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code.

(iii) An inpatient, or a child at risk of becoming an inpatient, in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(iv) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is at risk of psychiatric hospitalization or out-of-home placement for residential treatment.

(b) (1) Adults and older adults who have a serious mental disorder.

(2) For the purposes of this part "serious mental disorder" means a mental disorder which is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, as well as major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a secondary diagnosis of substance abuse, developmental disability, or other physical or mental disorder.

(3) Members of this target population shall meet all of the following criteria:

(A) The person has a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder.

(B) (i) As a result of the mental disorder the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms.

(ii) For the purposes of this part, "functional impairment" means being substantially impaired as the result of a mental disorder in independent living, social relationships, vocational skills, or physical condition.

(C) As a result of a mental functional impairment and circumstances the person is likely to be eligible for public assistance, services, or entitlements or is otherwise legally a public responsibility.

(4) For the purpose of organizing outreach and treatment options, to the extent resources are available, this target population

includes, but is not limited to, persons who are any of the following:

(A) Homeless persons.

(B) Persons evaluated by appropriately licensed persons as requiring care in acute treatment facilities including state hospitals, acute inpatient facilities, institutes for mental disease, and crisis residential programs.

(C) Persons arrested or convicted of crimes.

(D) Persons who require acute treatment as a result of a first episode of mental illness with psychotic features.

(c) Adults or older adults who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality, or violence.

(d) Persons who need brief treatment as a result of a natural disaster or severe local emergency.

SEC. 69. Section 5600.35 is added to the Welfare and Institutions Code, to read:

5600.35. (a) Services should be encouraged in every geographic area to the extent resources are available for clients in the target population categories described in Section 5600.3.

(b) Services to the target populations should be planned and delivered so as to ensure statewide access by members of the target populations, including all ethnic groups in the state.

SEC. 70. Section 5600.4 of the Welfare and Institutions Code is repealed.

SEC. 71. Section 5600.4 is added to the Welfare and Institutions Code, to read:

5600.4. Community mental health services should be organized to provide an array of treatment options in the following areas, to the extent resources are available:

(a) Precrisis and Crisis Services. Immediate response to individuals in precrisis and crisis and to members of the individual's support system, on a 24-hour, seven-day-a-week basis. The focus of precrisis services is to offer ideas and strategies to improve the person's situation, and help access what is needed to avoid crisis. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs.

(b) Comprehensive Evaluation and Assessment. Includes evaluation and assessment of physical and mental health, income support, housing, vocational training and employment, and social support services needs.

(c) Individual Service Plan. Identification of the short- and long-term service needs of the individual, advocating for, and coordinating the provision of these services. The development of the plan should include the participation of the client, family members, friends, and providers of services to the client, as appropriate.

(d) Medication Education and Management. Includes, but is not limited to, evaluation of the need for administration of, and

education about, the risks and benefits associated with medication. Clients should be provided this information prior to the administration of medications pursuant to state law. To the extent practicable, families and caregivers should also be informed about medications.

(e) Case Management. Client-specific services that assist clients in gaining access to needed medical, social, educational, and other services.

(f) Twenty-four Hour Treatment Services. Treatment provided in any of the following: an acute psychiatric hospital, an acute psychiatric unit of a general hospital, a psychiatric health facility, an institute for mental disease, or community residential treatment programs, including crisis, transitional and long-term programs.

(g) Rehabilitation and Support Services. Services designed to provide individual and group counseling, treatment and rehabilitation services which assist an individual to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community.

(h) Vocational Rehabilitation. Services which provide a range of vocational services to assist individuals to prepare for, obtain, and maintain employment.

(i) Residential Services. Room and board and 24-hour care and supervision.

(j) Services for Homeless Persons. Services designed to assist mentally ill persons who are homeless, or at risk of being homeless, to secure housing and financial resources.

(k) Individual Services. Services provided to an individual which are designed to assist the individual to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community.

(*l*) Group Services. Services to two or more clients at the same time.

SEC. 72. Section 5600.5 of the Welfare and Institutions Code is repealed.

SEC. 73. Section 5600.5 is added to the Welfare and Institutions Code, to read:

5600.5. The minimum array of services for children and youth meeting the target population criteria established in subdivision (a) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services.

(b) Assessment.

(c) Medication education and management.

(d) Case management.

(e) Twenty-four-hour treatment services.

(f) Day programs.

(g) Individual services.

(h) Collateral services.

SEC. 74. Section 5600.6 of the Welfare and Institutions Code is

repealed.

SEC. 75. Section 5600.6 is added to the Welfare and Institutions Code, to read:

5600.6. The minimum array of services for adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services.

(b) Assessment.

(c) Medication education and management.

(d) Case management.

(e) Twenty-four-hour treatment services.

(f) Rehabilitation and support services.

(g) Vocational services.

(h) Residential services.

SEC. 76. Section 5600.7 of the Welfare and Institutions Code is repealed.

SEC. 77. Section 5600.7 is added to the Welfare and Institutions Code, to read:

5600.7. The minimum array of services for older adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services.

(b) Assessment.

(c) Medication education and management.

(d) Case management.

(e) Twenty-four-hour treatment services.

(f) Residential services.

(g) Rehabilitation and support services.

SEC. 78. Section 5600.9 of the Welfare and Institutions Code is repealed.

SEC. 79. Section 5600.9 is added to the Welfare and Institutions Code, to read:

5600.9. (a) Services to the target populations described in Section 5600.3 should be planned and delivered to the extent practicable so that persons in all ethnic groups are served with programs that meet their cultural needs.

(b) Services in rural areas should be developed in flexible ways, and may be designed to meet the needs of the indigent and uninsured who are in need of public mental health services because other private services are not available.

(c) To the extent permitted by law, counties should maximize all available funds which may provide services to the target populations. Counties are expressly encouraged to develop interagency programs and to blend services and funds for individuals with multiple problems, such as those with mental illness and substance abuse children, which are served by multiple agencies. State departments are directed to assist counties in the development of mechanisms to

blend funds and to seek any necessary waivers which may be appropriate.

SEC. 80. Section 5601 of the Welfare and Institutions Code is amended to read:

5601. As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly; and in the case of a city, the city council or city councils acting jointly.

(b) "Conference" means the California Conference of Local Mental Health Directors as established under Section 5757.

(c) Unless the context requires otherwise, "to the extent resources are available" means to the extent that funds deposited in the mental health account of the local health and welfare fund are available to an entity qualified to use those funds.

(d) "Part 1" refers to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

(e) "Director of Mental Health" or "director" means the Director of the State Department of Mental Health.

(f) "Institution" includes a general acute care hospital, a state hospital, a psychiatric hospital, a psychiatric health facility, a skilled nursing facility, including an institution for mental disease as described in Chapter 1 (commencing with Section 5900) of Part 5, an intermediate care facility, a community care facility or other residential treatment facility, or a juvenile or criminal justice institution.

(g) "Mental health service" means any service directed toward early intervention in, or alleviation or prevention of, mental disorder, including, but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services.

SEC. 81. Section 5602 of the Welfare and Institutions Code is amended to read:

5602. The board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties. Services of the State Department of Mental Health shall be provided to the county, or counties acting jointly, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to terms and conditions approved by the Director of General Services.

SEC. 82. Section 5603 of the Welfare and Institutions Code is repealed.

SEC. 83. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) Each community mental health service shall have an

advisory board of 17 members appointed by the governing body except that boards in counties with a population of less than 100,000 may have a minimum of 11 members. One member of the advisory board shall be a member of the local governing body. Not less than 51 percent of the members of the advisory board shall be persons representative of the public interest in mental health.

(1) In counties with 100,000 or more population, not less than six of the members representing the public interest shall be persons or the parents, spouse, sibling, or adult children of persons, who are receiving or have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital, or any public or private nonprofit mental health agency and at least two shall be persons who are receiving or have received mental health services and at least two shall be the parents, spouse, sibling, or adult children of persons receiving or who have received mental health services.

(2) In counties under 100,000 population, at least one member shall be a person who is receiving or has received mental health services.

(3) The advisory boards shall contain two physicians, one of whom shall specialize in psychiatry, and the remaining members shall be selected from among the following mental health professions: psychology, social work, nursing, marriage and family counseling, psychiatric technology, and hospital or community mental health facility administration. No more than one appointee from each of these professions shall be selected. Persons in the professions of education, law, criminal justice, and fiscal management may be considered as representatives of the general public. For members representing the public interest, the governing body shall appoint persons representing different disciplines. Not more than two nonpaid members of the governing body of a private or public Bronzan-McCorquodale contract agency may be appointed to the advisory board.

(b) The term of each member of the board shall be for three years. However, of the members first appointed to a board with 17 members, six shall be appointed for one year, six for a term of two years, and five for a term of three years. For members appointed to boards of less than 17 members, the governing body shall equitably stagger the appointments so that approximately one-third of the appointments shall be for one year, one-third for two years, and one-third for three years. If, however, prior to the expiration of a term a member ceases to retain the status which qualified the person for appointment on the board, the membership on the board shall terminate and there shall be a vacancy on the board.

(c) If two or more local agencies jointly establish a community mental health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for the community mental health service shall consist of an additional two members for each additional agency, one

of whom shall be a member of the governing body or a person who does not qualify as a professional member under this section designated by the governing body and the second of whom shall be a person or a parent, spouse, sibling, or adult child of a person who has received mental health services.

(d) No member of the advisory board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Mental Health, or an employee of, or a paid member of the governing body of, a Bronzan-McCorquodale contract agency.

(e) Members of the advisory board shall abstain from voting on any issue in which the member has a financial interest as defined in Section 87103 of the Government Code.

(f) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Mental Health, or on the staff of, or a paid member of the governing body of, a Bronzan-McCorquodale contract agency.

(g) The composition of the mental health advisory board shall reflect the minority population found in the county. A statement shall be included in the mental health plan or contract as to the ways equitable representation will be achieved and a timetable for achieving equitable representation.

(h) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 84. Section 5604.1 of the Welfare and Institutions Code is amended to read:

5604.1. (a) Local mental health advisory boards shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 85. Section 5604.2 of the Welfare and Institutions Code is amended to read:

5604.2. (a) The local mental health advisory board shall do all of the following:

(1) Review and evaluate the community's mental health needs, services, facilities, and special problems.

(2) Review any county agreements entered into pursuant to Section 5650.

(3) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(4) Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process.

(5) Submit an annual report to the governing body.

(6) Make recommendations regarding the appointment of a local director of mental health services.

(b) (1) It is the intent of the Legislature that, as part of its duties pursuant to subdivision (a), the board consider the impact of the realignment of services from the state to the county, on services delivered to clients and on the local community, and, no later than March 15, 1992, provide recommendations to the California Council on Mental Health pursuant to subdivision (b) of Section 5764 regarding the appropriate roles of the board and the Organization of Mental Health Advisory Boards under the realignment, as well as other relevant information.

(2) The California Council on Mental Health shall provide a final report to the Legislature pursuant to this subdivision no later than January 15, 1993.

(c) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 86. Section 5604.3 of the Welfare and Institutions Code is amended to read:

5604.3. (a) The board of supervisors may pay from any available funds the actual and necessary expenses of the members of the advisory board of a community mental health service incurred incident to the performance of their official duties and functions. The expenses may include travel, lodging, child care, and meals for the members of an advisory board while on official business as approved by the director of the local mental health program.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 87. Section 5604.5 of the Welfare and Institutions Code is amended to read:

5604.5. (a) The local mental health advisory board shall develop bylaws to be approved by the governing body which shall:

(1) Establish the specific number of members on the mental health advisory board if the county has a population of less than 100,000.

(2) Ensure that the composition of the Mental Health Advisory Board represents the demographics of the county as a whole.

(3) Establish that a quorum be one person more than one-half of the appointed members.

(4) Establish that the chairperson of the mental health advisory board be in consultation with the local mental health director.

(5) Establish that there may be an executive committee of the mental health advisory board and that the elected representative to

the Organization of Mental Health Advisory Boards be on that committee.

(6) Establish that the chair or other member be elected to represent that board to the Organization of Mental Health Advisory Boards.

(7) Define the responsibilities of the representative to the Organization of Mental Health Advisory Boards.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 88. Section 5605 of the Welfare and Institutions Code is amended to read:

5605. (a) There is hereby established an Organization of Mental Health Advisory Boards, which shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(1) To provide coordination, consultation, and training for local mental health advisory boards. The State Department of Mental Health shall provide by contract for the support of this requirement.

(2) To advise the California Council on Mental Health, the California Conference of Local Mental Health Directors, and the Legislature.

(3) To provide a forum for local mental health advisory boards to discuss problems, exchange information, and improve coordination.

(4) To advise the State Department of Mental Health as to those areas within the purview of the Organization of Mental Health Advisory Boards.

(5) To fix the salaries of personnel employed which reflect their levels of responsibility and required duties.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which become effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 89. Section 5605.1 of the Welfare and Institutions Code is amended to read:

5605.1. (a) The Organization of Mental Health Advisory Boards is composed of an elected representative of each local mental health advisory board. Each local mental health advisory board shall elect its chair or a member to represent that board to the Organization of Mental Health Advisory Boards.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 90. Section 5605.2 of the Welfare and Institutions Code is amended to read:

5605.2. (a) All departments of state government, as well as each facility named in the county performance contract, are encouraged

to cooperate with, and provide such information, records, documents, and studies as the Organization of Mental Health Advisory Boards may request.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 91. Section 5605.4 of the Welfare and Institutions Code is amended to read:

5605.4. (a) The Organization of Mental Health Advisory Boards may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. All personnel employed by the Organization of Mental Health Advisory Boards shall be solely responsible, organizationally and administratively, to the Organization of Mental Health Advisory Boards. The Organization of Mental Health Advisory Boards shall have the responsibility for the selection, hiring, and supervision of all personnel.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 92. Section 5608 of the Welfare and Institutions Code is amended to read:

5608. The local director of mental health services shall have the following powers and duties:

(a) Serve as chief executive officer of the community mental health service responsible to the governing body through administrative channels designated by the governing body.

(b) Exercise general supervision over mental health services provided under this part.

(c) Recommend to the governing body, after consultation with the advisory board, the provision of services, establishment of facilities, contracting for services or facilities and other matters necessary or desirable in accomplishing the purposes of this division.

(d) Submit an annual report to the governing body reporting all activities of the program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) Carry on studies appropriate for the discharge of his or her duties, including the control and prevention of mental disorders.

(f) Possess authority to enter into negotiations for contracts or agreements for the purpose of providing mental health services in the county.

SEC. 93. Section 5609.5 of the Welfare and Institutions Code is repealed.

SEC. 94. Section 5610 is added to the Welfare and Institutions Code, to read:

5610. (a) Each county mental health system shall comply with

reporting requirements developed by the State Department of Mental Health which shall be uniform and simplified. The department shall review existing data requirements to eliminate unnecessary requirements and consolidate requirements which are necessary. These requirements shall provide comparability between counties in reports.

(b) The department shall develop, in consultation with the Performance Outcome Committee pursuant to Section 5611, and with the Health and Welfare Agency, uniform definitions and formats for a statewide, nonduplicative client-based information system that includes all information necessary to meet federal mental health grant requirements and state and federal medicaid reporting requirements, as well as any other state requirements established by law, or agreed upon by the department and the California Conference of Local Mental Health Directors. The data system, including performance outcome measures reported pursuant to Section 5613, shall be developed by July 1, 1992.

(c) Unless determined necessary by the department to comply with federal law and regulations, the data system developed pursuant to subdivision (b) shall not be more costly than that in place during the 1990–91 fiscal year.

SEC. 95. Section 5611 of the Welfare and Institutions Code is repealed.

SEC. 96. Section 5611 is added to the Welfare and Institutions Code, to read:

5611. (a) The Director of Mental Health shall establish a Performance Outcome Committee, to be comprised of representatives from the PL 99-660 Planning Council and the California Conference of Local Mental Health Directors. Any costs associated with the performance of the duties of the committee shall be absorbed within the resources of the participants.

(b) Major mental health professional organizations representing licensed clinicians may participate as members of the committee at their own expense.

(c) The committee may seek private funding for costs associated with the performance of its duties.

SEC. 97. Section 5612 of the Welfare and Institutions Code is repealed.

SEC. 98. Section 5612 is added to the Welfare and Institutions Code, to read:

5612. (a) The Performance Outcome Committee shall develop measures of performance for evaluating client outcomes and cost effectiveness of mental health services provided pursuant to this division. The reporting of performance measures shall utilize the data collected by the State Department of Mental Health in the client-specific, uniform, simplified, and consolidated data system. The performance measures shall take into account resources available overall, resource imbalance between counties, other services available in the community, and county experience in

developing data and evaluative information.

(b) The committee should consider outcome measures in the following areas:

(1) Numbers of persons in identified target populations served.

(2) Estimated number of persons in identified target populations in need of services.

(3) Treatment plans development for members of the target population served.

(4) Treatment plan goals met.

(5) Stabilization of living arrangements.

(6) Reduction of law enforcement involvement and jail bookings.

(7) Increase in employment or education activities.

(8) Percentage of resources used to serve children and older adults.

(9) Number of patients' rights advocates and their duties.

(10) Quality assurance activities for services, including peer review and medication management.

(11) Identification of special projects, incentives, and prevention programs.

(c) Areas identified for consideration by the committee are for guidance only.

SEC. 99. Section 5613 of the Welfare and Institutions Code is repealed.

SEC. 100. Section 5613 is added to the Welfare and Institutions Code, to read:

5613. (a) Counties shall annually report data on performance measures established pursuant to Section 5612 to the local mental health advisory board and to the Director of Mental Health.

(b) The Director of Mental Health shall annually make available to the Legislature, no later than March 15, data on county performance.

SEC. 101. Section 5614 of the Welfare and Institutions Code is repealed.

SEC. 102. Section 5615 of the Welfare and Institutions Code is amended to read:

5615. If they so elect, cities that were operating independent public mental health programs on January 1, 1990, shall continue to receive direct payments.

SEC. 103. Section 5615.5 of the Welfare and Institutions Code is repealed.

SEC. 104. Section 5616 of the Welfare and Institutions Code is amended to read:

5616. Nothing in this part shall prevent any city or combination of cities from owning, financing, and operating a mental health program.

SEC. 105. Section 5619 of the Welfare and Institutions Code is repealed.

SEC. 106. Section 5622 of the Welfare and Institutions Code is amended to read:

5622. (a) A licensed inpatient mental health facility operated by a county or pursuant to a county contract, shall, prior to the discharge of any patient who was placed in the facility, prepare a written aftercare plan. The aftercare plan shall specify the following:

(1) Assessment of present level of functioning, including capacity to provide for food, clothing, and shelter.

(2) Diagnoses, including treatment initiated, medications, and dosage schedules.

(3) Six-month and twelve-month prognosis.

(4) The specific programs and services required so the person can minimize future confinement and receive the treatment in the least restrictive setting, including:

(A) Treatment objectives and goals stated in terms which allow for measurement of progress and the identification of the mental health personnel responsible for the implementation of the goals and objectives.

(B) Referral to providers of medical and mental health services.

(C) Identification of public social services, legal aid, educational, and vocational services.

(5) If the person is homeless, arrangements, if possible, for the voluntary placement of the person in a living environment suitable to his or her needs.

(b) Any person undergoing treatment at a facility under the Lanterman-Petris-Short Act or a county Bronzan-McCorquodale facility shall be entitled to obtain, upon request, a written aftercare plan.

(c) A copy of the aftercare plan shall be transmitted to the local director of mental health services in the county of the person's placement who shall adopt and implement the plan, with any modifications or changes which are necessary in light of available resources, or when in the opinion of the local director of mental health services, other or alternate treatment is appropriate. Any patient who is released from a community treatment facility or state hospital on a voluntary basis may refuse any or all services under the written aftercare plan.

SEC. 107. Section 5623.5 is added to the Welfare and Institutions Code, to read:

5623.5. Commencing October 1, 1991, and to the extent resources are available, no county shall deny any person receiving services administered by the county mental health program access to any medication which has been prescribed by the treating physician and approved by the federal Food and Drug Administration and the Medi-Cal program for use in the treatment of psychiatric illness.

SEC. 108. Section 5624 of the Welfare and Institutions Code is repealed.

SEC. 109. The heading of Chapter 2 (commencing with Section 5650) of Part 2 of Division 5 of the Welfare and Institutions Code is amended to read:

CHAPTER 2. THE COUNTY PERFORMANCE CONTRACT

SEC. 110. Section 5650 of the Welfare and Institutions Code is repealed.

SEC. 111. Section 5650 is added to the Welfare and Institutions Code, to read:

5650. (a) The board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, a proposed annual county mental health services performance contract for mental health services in the county or counties.

(b) The State Department of Mental Health shall develop and implement the requirements, format, procedure, and submission dates for the preparation and submission of the proposed performance contract.

SEC. 112. Section 5650.1 of the Welfare and Institutions Code is repealed.

SEC. 113. Section 5650.5 is added to the Welfare and Institutions Code, to read:

5650.5. Any other provision of law referring to the county Short-Doyle plan shall be construed as referring to the county mental health services performance contract described in this chapter.

SEC. 114. Section 5651 of the Welfare and Institutions Code is repealed.

SEC. 115. Section 5651 is added to the Welfare and Institutions Code, to read:

5651. The proposed annual county mental health services performance contract shall include all of the following:

(a) The following assurances:

(1) That the county is in compliance with the expenditure requirements of Section 5702.

(2) That the county shall provide the mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirements of that chapter.

(3) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(4) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the department.

(5) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5603.2.

(6) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(7) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.

(8) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(9) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(10) Assurances that the county shall comply with all applicable laws and regulations for all services delivered.

(b) The county's proposed agreement with the department for state hospital usage as required by Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Performance contracts required by this chapter shall include any contractual requirements needed for any program initiatives utilized by the county contained within this part. In addition, any county may choose to include contract provisions for other state directed mental health managed programs within this performance contract.

(d) Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

SEC. 116. Section 5651.1 of the Welfare and Institutions Code is repealed.

SEC. 117. Section 5651.2 of the Welfare and Institutions Code is repealed.

SEC. 118. Section 5651.2 is added to the Welfare and Institutions Code, to read:

5651.2. For the 1991–92 fiscal year, each county shall, no later than August 31, 1991, submit to the department a simplified performance contract. The performance contract shall contain information that the department determines necessary for the provision and funding of mental health services provided for in law. The performance contract shall include, but not be limited to, assurances necessary to ensure compliance with federal law. In addition, the performance contract may include provisions governing reimbursement to the state for costs associated with state hospital and institutions for mental disease.

SEC. 119. Section 5651.3 of the Welfare and Institutions Code is repealed.

SEC. 120. Section 5651.5 of the Welfare and Institutions Code is repealed.

SEC. 121. Section 5651.5 is added to the Welfare and Institutions Code, to read:

5651.5. (a) When the proposed county mental health services performance contract is submitted to the Director of Mental Health

it shall be accompanied by a document indicating the proposed contract has been reviewed by the local mental health advisory board.

(b) This section shall become inoperative on July 1, 1993, and on January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 122. Section 5651.7 of the Welfare and Institutions Code is repealed.

SEC. 123. Section 5652 of the Welfare and Institutions Code is repealed.

SEC. 124. Section 5652.5 of the Welfare and Institutions Code is repealed.

SEC. 125. Section 5652.5 is added to the Welfare and Institutions Code, to read:

5652.5. (a) Each county shall utilize available private and private nonprofit mental health resources and facilities in the county prior to developing new county-operated resources or facilities when these private and private nonprofit mental health resources or facilities are of at least equal quality and cost as county-operated resources and facilities and shall utilize available county resources and facilities of at least equal quality and cost prior to new private and private nonprofit resources and facilities. All the available local public or private and private nonprofit facilities shall be utilized before state hospitals are used.

(b) Nothing in this section shall prevent a county from restructuring its systems of care in the manner it believes will provide the best overall care.

SEC. 126. Section 5656 of the Welfare and Institutions Code is repealed.

SEC. 127. Section 5657 of the Welfare and Institutions Code is amended to read:

5657. (a) The private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part shall provide an invoice to the county for the amount of the payment due within 60 days of the date the services are supplied, as long as that date is at least 60 days from the date the county has received distribution of mental health funds from the state.

(b) Any county which, without reasonable cause, fails to make any payment within 60 days of the required payment date to a private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part, for an indisputed claim which was properly executed by the claimant and submitted to the county, shall pay a penalty of 0.10 percent of the amount due, per day, from the 61st day after the required payment date.

(c) For the purposes of this section, "required payment date" means any of the following:

(1) The date on which payment is due under the terms of the contract.

(2) If a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt.

(3) If a specific date is not established by contract or invoice, 60 days after receipt of a proper invoice for the amount of the payment due.

(d) The penalty assessed under this section shall not be paid from the Bronzan-McCorquodale program funds or county matching funds. The penalty provisions of this section shall not apply to the late payment of any federal funds or Medi-Cal funds.

SEC. 128. Section 5664 of the Welfare and Institutions Code is repealed.

SEC. 129. Section 5664 is added to the Welfare and Institutions Code, to read:

5664. (a) County mental health systems shall provide reports and data to meet the information needs of the state.

(b) The department shall not implement this section in a manner requiring a higher level of service for state reporting needs than that which it was authorized to require prior to July 1, 1991.

SEC. 130. Section 5664.5 is added to the Welfare and Institutions Code, to read:

5664.5. (a) County mental health systems shall continue to provide data required by the State Department of Mental Health to establish uniform definitions and time increments for reporting type and cost of services received by local mental health program clients.

(b) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it is repealed; or until the date upon which the director informs the Legislature that the new data system is established pursuant to Section 5610, whichever is later, unless the provisions of the section are required by the federal government as a condition of funding for the Short-Doyle Medi-Cal program.

SEC. 131. Section 5665 is added to the Welfare and Institutions Code, to read:

5665. After the development of performance outcome measures pursuant to Section 5610, whenever a county makes a substantial change in its allocation of mental health funds among services, facilities, programs, and providers, it shall, at a regularly scheduled public hearing of the board of supervisors, document that it based its decision on the most cost-effective use of available resources to maximize overall client outcomes, and provide this documentation to the department.

SEC. 132. Section 5666 is added to the Welfare and Institutions Code, to read:

5666. (a) The Director of Mental Health shall review each proposed county mental health services performance contract to

determine that it complies with the requirements of this division.

(b) The director shall require modifications in the proposed county mental health services performance contract which he or she deems necessary to bring the proposed contract into conformance with the requirements of this division.

(c) Upon approval by both parties, the provisions of the performance contract required by Section 5651 shall be deemed to be a contractual arrangement between the state and county.

SEC. 133. Chapter 2.5 (commencing with Section 5675) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 134. Chapter 2.5 (commencing with Section 5670) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 2.5. PROGRAM INITIATIVES

Article 1. Community Residential Treatment System

5670. (a) It is the intent of the Legislature to encourage the development of a system of residential treatment programs in every county which provides a range of alternatives to institutional care based on principles of residential, community-based treatment.

(b) It is further the intent of the Legislature that community residential mental health programs in the State of California be developed in accordance with the guidelines and principles set forth in this chapter. To this end, counties may implement the community residential treatment system described in this chapter either with available county allocations, or as new moneys become available.

5670.5. Criteria for community residential treatment system programs are as follows:

(a) Facilities:

(1) Settings, whether residential or day, should be as close to a normal home environment as possible without sacrificing client safety or care.

(2) Residential treatment centers should be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting.

(3) The individual elements of the system should, where possible, be in separate facilities, and not part of one large facility attempting to serve an entire range of clients.

(b) Staffing patterns:

(1) Staffing patterns should reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual and other social characteristics of the community the facility serves.

(2) The programs should be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the clients.

(3) The programs should use paraprofessionals and persons who have been consumers of mental health services where appropriate.

(c) Programs:

(1) The programs should, to the maximum extent feasible, be designed so as to reduce the dependence on medications as a sole treatment tool. Programs in which prescriptions for medication are a component of the program should be subject to the medications-monitoring.

(2) The programs should have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. Where appropriate, they should include prevocational and vocational programs.

(3) The program should encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.

(4) Participation in any element of the system should not preclude the involvement of clients in individual therapy. Individual therapists of clients should, where possible, be directly involved in the development and implementation of a treatment plan, including medication and day program decisions.

(d) Coordination:

The programs should demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health system, but should include, whenever possible, community resources utilized by the general population.

5671. The following should be the programs in the community residential treatment system. These programs should be designed to provide, at every level, alternatives to institutional settings.

(a) A program for a short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or crisis requiring temporary removal from their home environment. The program should be available for admissions 24 hours a day, seven days a week. The primary focus of this program should be on reduction of the crisis, on stabilization, and on a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program should include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, and development of a support system, including income and treatment referrals. This program should be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. This program should place an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

(b) A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This program should be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this

program should be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It should also serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program should go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program should include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. This program may employ a variety of staffing patterns and should be for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients should be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents should be required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services in this program should include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A program for semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system programs, but who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses should be shared by three to five persons. These small cooperative housing units should function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This program should be for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system, in

order to remain in this setting. The satellite units should be as normative as the general living arrangements in the communities in which they are developed.

(e) A program to provide emergency housing or respite care services, or both. These services should be designed for persons with a mental disability in need of temporary housing, but who do not require hospitalization or the more intensive support and treatment of the crisis residential program. Services provided should include, but not be limited to, advocacy, counseling, and linkages to community mental health and other human services, including referrals to vocational and housing opportunities.

(f) A day rehabilitation program which should be designed to provide structured education, training, and support services to promote the development of independent living skills and community support. Services provided should include, but not be limited to, peer support, education services, prevocational and employment services, recreational and social activities, service brokerage and advocacy, orientation to community resources, training in independent living skills, health education including medication education, individual and group counseling, education and counseling services for family members, and crisis intervention.

(g) The program for socialization centers should be designed to serve a broad range of clients, including those in the system programs, when appropriate, as well as persons living in the community in general. This program should be designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services in this program should include, but not be limited to, outings, recreational activities, cultural events, linkages to community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program should be for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with the opportunity to develop the skills to move toward independent living. Also included in the program should be adult education support programs which utilize community college and other adult education agencies. These services would provide opportunities to individuals throughout the community residential treatment system and in other living settings, including independent living, to develop skills necessary for independent living through the utilization of resources available to the general population.

(h) An in-home treatment program designed as an alternative to

out-of-home placement for individuals who are otherwise not appropriate for, or do not choose to participate in, other elements of the community residential treatment system. This program should be designed for those individuals who would benefit most from a treatment intervention in their home environment. It is a basic premise of this element that treatment should focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the program should be to reintegrate the individual with the family unit, when appropriate, and with the greater community without removing the person from his or her home environment.

The service may be designed as a crisis intervention for persons experiencing an acute episode or an ongoing independent living service, or both, for persons wishing to obtain or maintain housing and services in the community. Services provided should include, but not be limited to, crisis intervention, family work, when appropriate, development of a specific treatment plan, development of an ongoing rehabilitation plan utilizing available resources in the community, and coordination with such services as case management, vocational rehabilitation, schools and other education services, and various special programs which would act as a support system for the individual.

(i) A volunteer-based companion program designed to encourage the development of personal relationships with residents of community care facilities with the goal of motivating and assisting residents to make a successful transition to independent living, or to programs of the community residential treatment system.

The service should be provided primarily by volunteers, including students as a part of a college or university curriculum, who are supervised and coordinated by trained and experienced personnel. Services provided should include, but not be limited to, recreation, one-to-one companionship, advocacy, and assistance in developing the knowledge and use of community resources, including housing and vocational services, and follow up for persons who make the transition to independent living.

5671.5. It is the intent of the Legislature that programs serving children and adolescents should be established under this chapter. Such programs should follow the guidelines and principles set forth in this chapter and in addition should meet the following criteria unique to the population to be served:

(a) The programs should, to the maximum extent feasible, be designed so as to reduce the disruption and promote the reintegration of the family unit of which the child is a part.

(b) The programs should have an education focus and should demonstrate specific linkage with community education resources.

(c) The programs should contain a specific followup component.

5672. The types of programs serving children and adolescents referred to in Section 5671.5 are those described in this section. The programs should meet the criteria set forth in this section and in

Sections 5671 and 5671.5. Nothing in this section should be construed to waive any licensure requirement pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) for any community care facility.

(a) A program for a short-term crisis residential alternative to hospitalization. The services in this program should include, but not be limited to, provision of direct services to the family, specific linkages with the child's educational system and community educational resources, and development of a support system, including school and treatment referrals. The program should be designed for children and adolescents who would otherwise be referred to a psychiatric inpatient unit. It should be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services.

(b) A long-term residential treatment program. This program should have an educational orientation and should reflect the principle that education be available in the least restrictive environment. The program should serve children and adolescents requiring an intensive support system for a period of six to 18 months, who would otherwise be at risk of periodic hospitalization. The program should provide coordinated intervention with the child, family unit, and community education resources, and should include aftercare services to the child and family unit to solidify gains and develop skills in linking with community services.

(c) A transitional residential program. This program may include group homes, foster homes, or homes adapted for preparing adolescents approaching majority to adjust to emancipation.

The services in this program should include, but not be limited to, coordination with community education resources to meet the child's individual need, family services designed to strengthen the family unity of which the child is a part, and aftercare services to reinforce the gains brought about by the program and assist in community adjustment.

(d) A program for a semisupervised, independent but structured living arrangement. This program should apply to older adolescents, who are either emancipated or who would not be returning home from out-of-home placement. The semisupervised living arrangement should require structured living designed to impart those skills necessary for successful independent living as described in subdivision (d) of Section 5458. Adult supervision should be available 24 hours per day.

The services should include, but not be limited to, prevocational and vocational linkages in the community, financial planning which may include rent subsidy assistance, and development of a social support system.

(e) (1) A day treatment program. This program should provide services to children and adolescents who are residing in their own homes or in out-of-home placements. Schoolsites or other

noninstitutional settings are preferred for this program. A day treatment program for children should offer a multidisciplinary approach and should incorporate education, recreation, and rehabilitation activities. Services provided should be age appropriate and age specific intensive remedial programs, including education, counselling, socialization, and recreational services. To the extent feasible, the client's family should be included in these activities.

(2) Day treatment services should be designed to provide an alternative to residential placement, to provide preventive services in the early stages of family breakdown, and to reduce the need for more costly and lengthy treatment services. Aftercare services should be available to maintain gains and prevent family regression.

(f) A socialization center program. This program should provide a multidisciplinary approach and seek funding from a variety of agencies responsible for providing services, including, but not limited to, school districts and recreation departments. The services should promote community acceptance of clients and the integration of their family units. Family involvement in planning activities and developing support system linkages should be encouraged.

(g) An in-home treatment program. This program should be designed to strengthen the child's ties with the family unit and with the greater community without removing the child from his or her home environment and community educational system.

Services provided should include, but not be limited to, crisis intervention, direct family services, development of specific treatment plans, development of ongoing plans utilizing available resources in the community educational system, and special programs which act as a support system for the child and family unit.

(h) Augmentation of crisis intervention program. This program should provide specifically for evaluation, diagnosis, and disposition planning for children and adolescents in psychiatric crisis.

(i) Case management services program. This program should emphasize prevention services and should be designed to divert to noninstitutional programs children and adolescents at risk of involvement with traditional mental health institutions.

SEC. 135. The heading of Chapter 2.55 (commencing with Section 5678) of Part 2 of Division 5 of the Welfare and Institutions Code is amended and renumbered to read:

CHAPTER 2.7. CASE MANAGEMENT FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE

SEC. 136. Section 5678 of the Welfare and Institutions Code is amended and renumbered to read:

5692. (a) The Legislature finds and declares all of the following:

(1) That mental health case management services required for children with serious emotional disturbance are different than these services for mentally disordered clients described in Chapter 2.5 (commencing with Section 5670).

(2) That mental health case management services for children with serious emotional disturbance are not defined in statute.

(3) That the development of mental health case management for these children would assure comprehensive appraisal and utilization of the most appropriate resources within the children's environment as well as the maintenance and strengthening of family ties.

(b) It is the intent of the Legislature to encourage the development of mental health case management services for children with serious emotional disturbance who are separated or at risk of being separated from their families and require mental health treatment, to the extent resources are available. It is further the intent of the Legislature that mental health case management for children with serious emotional disturbance in this state be developed in accordance with the definitions and guidelines contained in this chapter.

SEC. 137. Section 5678.1 of the Welfare and Institutions Code is amended and renumbered to read:

5692.5. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

SEC. 138. Section 5678.2 of the Welfare and Institutions Code is amended and renumbered to read:

5699. "Child with serious emotional disturbance" means a minor under 18 years of age described in Section 5697 who meets one or more of the following criteria:

(a) A child who is a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602 and is placed out-of-home.

(b) A child who is a special education student defined in paragraph 8 of subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations and is receiving residential care pursuant to an individual educational program. This section also includes special education students through age 21 identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code.

(c) An inpatient in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(d) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is "at risk" of psychiatric hospitalization or out-of-home placement for residential treatment.

SEC. 139. Section 5678.3 of the Welfare and Institutions Code is amended and renumbered to read:

5699.1. "Individual treatment plan" means a plan that includes all of the following:

(a) An assessment of the minor's specific capabilities and problems.

(b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems. The objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve

treatment plan objectives, including identification of the provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified.

SEC. 140. Section 5678.5 of the Welfare and Institutions Code is amended and renumbered to read:

5699.2. On and after January 1, 1987, any county may provide case management services for children with serious emotional disturbance pursuant to this chapter. The case management services may include all of the following:

(a) Development of an individual treatment plan for each child. The plan shall be collaboratively prepared and reviewed and modified, if necessary, at least annually, by one representative of the mental health program, the parents, legal guardian, conservator, or court appointed social worker or probation officer, and, where appropriate, the minor.

(b) Assignment of a mental health case manager to each child. The duties of the mental health case manager may include, but not be limited to, all of the following:

(1) Coordinating an ecological assessment of the child's needs which evaluates the child both individually and in relation to his or her family, school, and community environments.

(2) Developing, implementing, monitoring, and reviewing each individual treatment plan that addresses the identified needs.

(3) Linking and arranging or providing for the needed services.

(4) Monitoring the adequacy of the services provided.

(5) Advocating for the minor.

SEC. 141. Section 5678.6 of the Welfare and Institutions Code is amended and renumbered to read:

5699.5. Nothing in this chapter shall be construed to authorize the use of state funds to provide services under this chapter or to enforce the provisions of this chapter.

SEC. 142. Chapter 2.6 (commencing with Section 5680) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 143. The heading of Chapter 2.6 (commencing with Section 5680) of Part 2 of Division 5 of the Welfare and Institutions Code is amended and renumbered to read:

Article 2. Community Support System for Homeless Mentally Disabled Persons

SEC. 144. Section 5681 of the Welfare and Institutions Code is amended to read:

5681. (a) It is the intent of the Legislature that when funds are made available, counties should assure the delivery of long-range services and community support assistance to homeless mentally disabled persons and those at risk of becoming homeless.

(b) It is further the intent of the Legislature that specific outreach

and service priority be given under this chapter to homeless mentally disabled persons not served by any local or state programs as of the effective date of this section.

SEC. 145. Section 5682 of the Welfare and Institutions Code is amended to read:

5682. The goal of the community support system is to assure that needed community services are provided to homeless mentally disabled persons and those at risk of becoming homeless to stabilize, maintain, and enhance their living in the community. All services of the community support system are offered to these persons on a voluntary basis. The active participation of the clients being provided services is encouraged at all times. Programs are designed to be accessible to the clients intended to be served. No individual service offered should be contingent upon the acceptance of any other community support service or mental health treatment.

SEC. 146. Section 5683 of the Welfare and Institutions Code is amended to read:

5683. The function of the community support system is to conduct active outreach to homeless mentally disabled persons, to secure and maintain income, housing, food, and clothing for clients, and to develop social skills and prevocational and vocational skills on a voluntary basis. Each community support system is based upon the range of services as may be necessary to meet a client's needs:

(a) Personal assistance to secure and maintain housing, food, clothing, income, and health benefits.

(b) Accessing social and vocational skill development activities when they are available, case management, and crisis intervention, with a focus on finding alternatives to acute inpatient hospital care, services when they are needed.

SEC. 147. Section 5684 of the Welfare and Institutions Code is repealed.

SEC. 148. Section 5686 of the Welfare and Institutions Code is repealed.

SEC. 149. Section 5686 is added to the Welfare and Institutions Code, to read:

5686. Whenever a county believes that a mentally disabled person may be unable to manage his or her SSI/SSP funds, the county mental health program shall advise the person that he or she may have a trusted family member, relative or friend designated as their representative payee under the SSI/SSP program.

SEC. 150. Section 5687 of the Welfare and Institutions Code is repealed.

SEC. 151. Section 5687.5 of the Welfare and Institutions Code is repealed.

SEC. 152. Section 5688 of the Welfare and Institutions Code is repealed.

SEC. 153. Section 5688.5 of the Welfare and Institutions Code is repealed.

SEC. 154. Section 5688.6 of the Welfare and Institutions Code is

amended to read:

5688.6. Any and all funds appropriated for the homeless mentally disabled which have been determined to be unexpended and unencumbered two years after the date the funds were appropriated shall be transferred to the Department of Housing and Community Development. The amount of transfer shall be determined after the State Department of Mental Health settles county cost reports for the fiscal year the funds were appropriated. The funds transferred to the Department of Housing and Community Development shall be administered in accordance with that department's Special Users Housing Rehabilitation or Emergency Shelter programs to provide low-income transitional and long-term housing for homeless mentally disabled persons. Special priority shall be given to project proposals for homeless mentally disabled persons in the same county from which the funds for the support of the community support system were originally allocated.

SEC. 155. Section 5688.7 of the Welfare and Institutions Code is repealed.

SEC. 156. The heading of Chapter 2.7 (commencing with Section 5690) of Part 2 of Division 5 of the Welfare and Institutions Code is amended and renumbered to read:

Article 3. Community Vocational Rehabilitation System

SEC. 157. Section 5690 of the Welfare and Institutions Code is amended to read:

5690. It is the intent of the Legislature to, encourage the establishment in each county of a system of community vocational rehabilitation and employment services, for persons with serious psychiatric disabilities. It is further the intent of the Legislature that there be a range of available services whenever possible in each county based on the principle that work is an essential element in the local mental health treatment and support system.

SEC. 158. Section 5691 of the Welfare and Institutions Code is amended to read:

5691. (a) Counties may implement the community vocational rehabilitation system described in this chapter with existing county allocations, funds available from the Department of Rehabilitation and other state and federal agencies.

(b) It is the intent of the Legislature that on an annual basis five hundred thousand dollars ($500,000), or 17 percent, whichever is less, of the total federal funds available to the State of California pursuant to Section 611 of the Stewart B. McKinney Homeless Assistance Act, Public Law 100-77 (42 U.S.C. Sec. 290aa) shall be used to fund services pursuant to this chapter for homeless mentally disabled persons and those at risk of becoming homeless who have been identified pursuant to Chapter 2.6 (commencing with Section 5680).

Counties may not use these funds to provide services, including, but not limited to, vocational services, which could be funded by the

Department of Rehabilitation.

SEC. 159. Section 5692 of the Welfare and Institutions Code is repealed.

SEC. 160. Section 5692 is added to the Welfare and Institutions Code, to read:

5692. The State Department of Mental Health shall, to the extent resources are available, have responsibility for the provision of technical assistance, maximizing federal revenue, and ensuring coordination with other state agencies including implementing and coordinating interagency agreements between the Department of Rehabilitation and the State Department of Mental Health.

SEC. 161. Section 5693 of the Welfare and Institutions Code is amended and renumbered to read:

5692.5. Programs that constitute the community vocational rehabilitation system are of the following types:

(a) Prevocational programs should be, but are not limited to, components of day treatment programs, socialization and activity centers, board-and-care facilities, and skilled nursing-special treatment programs. Prevocational programs may use individual and group counseling, educational groups, volunteer service programs, and other modalities to emphasize to individuals the value of work and their right to employment.

(b) Vocational programs providing linkage and coordination for the system and which provide the following:

(1) Information, outreach, and referral services which provide ongoing liaison with assessment prevocational programs.

(2) Intake and evaluation services which may use vocational testing and analysis of work history to identify vocational strengths, weaknesses, and needs. The assessment findings should be used by the client and the program to negotiate the goals and objectives of an individual vocational plan.

(3) Work experience programs which consist of time-limited work opportunities that enable participants to develop work skills and establish a work history. These programs may include, but not be limited to, agency-operated businesses, work placements in the community, or other activities that provide a realistic work environment.

(4) Individual and group counseling services which are separated from the work experience component; individual counseling to assist clients in resolving problems related to the work situation, to update and renegotiate the individual vocational plan, and to assist clients with nonwork-related problems that affect their participation in the program; group counseling to address Social Security Administration rules and regulations: the effects of medication on work performance, the relationship between work and mental health, attributes and attitudes necessary for successful employment, job-seeking skills, and other related topics.

(5) Job development, placement, and referral services which assist clients in the following areas: obtaining competitive

employment; admission to job training or education programs; referral to the Department of Rehabilitation; agency operated competitive employment programs; governmental and private sector affirmative action hiring programs for the disabled; or other specialized employment programs. If employment, training, or education programs are not suitable for a client, the client should be actively referred back to a prevocational program or other mental health program that best meets his or her current needs.

(6) Support services which may include peer support groups and job clubs to assist clients in obtaining and maintaining employment; ongoing client counseling and placement followup; employer training, consultation, and placement followup services; and consultation services to prevocational programs.

(7) The preferred method to deliver the vocational rehabilitation services described in this section is supported employment.

SEC. 162. Section 5694 of the Welfare and Institutions Code is amended and renumbered to read:

5693. The following principles should guide development of community vocational rehabilitation systems:

(a) Work:

(1) Work should be meaningful, necessary, and have value to the individual performing it.

(2) For individuals participating in vocational programs every effort should be made to pay them the minimum wage. However, in all cases, wages paid shall be in compliance with all relevant state and federal labor laws.

(3) That work will result in the development of attributes that will enhance further employability.

(b) Staff:

(1) Staffing patterns at all levels should reflect the cultural, linguistic, ethnic, racial, disability, sexual, and other social characteristics of the community the program serves.

(2) All participating programs should take affirmative action to encourage the application and employment of consumers and former consumers of the mental health system at all program levels.

(3) Programs should be designed to use multidisciplinary professional consultation and staff to meet the specific needs of clients.

(4) When operating a business enterprise, programs should employ individuals with the business, management, supervisorial, trade, and occupational skills necessary for successful operation.

(5) Programs should, where appropriate, employ paraprofessionals.

(6) Programs should develop and implement staff training and development plans for personnel at all levels.

(c) Facilities:

(1) The individual elements of the system should, where possible, be in separate facilities.

(2) Facilities housing vocational and employment programs

should be modeled on competitive businesses operating in the community.

(3) Facilities shall be in compliance with all relevant state and federal safety, health, and accessibility regulations.

(d) System:

(1) Counties developing a community vocational rehabilitation system should utilize existing program resources to develop prevocational programs and a referral base for vocational programs.

(2) Individual programs operate most effectively within the context of a complete system. Counties undertaking development of a community vocational rehabilitation system should commit themselves to the implementation of regionally integrated prevocational and vocational programs.

(3) Rural counties, where appropriate, should be encouraged to develop intercounty systems, or to integrate their programs with programs serving other target populations.

(4) The system should have the capacity to deliver services tailored to individual needs. If a program is found to be unsuitable for a client at a specific time, an explanation will be provided to the client and he or she shall be referred to a more suitable program and encouraged to reapply. The system should have policies designed to meet changing client needs and to work with individuals over time to develop their vocational potential.

SEC. 163. Section 5696 of the Welfare and Institutions Code is amended and renumbered to read:

5693.5. The director shall provide technical assistance to those counties developing a community vocational rehabilitation system. In the event that the department lacks sufficient resources to provide technical assistance, it may be provided by contract.

SEC. 164. Article 4 (commencing with Section 5694) is added to Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code, to read:

Article 4. Self-Help

5694. Each community support program for the homeless mentally disabled should also assist its clients to establish self-help groups and peer counseling. Each agency should offer each client a written individualized service plan that will specify the services to be provided as a result of discussions with the client and the rights of the client, as well as the expected results or outcomes of the services. Each program should encourage each client to include family members, friends, his or her primary therapist, and his or her physician in the development of his or her individualized service plan.

5694.5. The counties may utilize designated mental health funding pursuant to this part for establishing and maintaining any client self-help mental health projects.

SEC. 165. The heading of Chapter 2.8 (commencing with Section

5697) of Part 2 of Division 5 of the Welfare and Institutions Code is amended and renumbered to read:

Article 5. Policy Initiatives for Seriously Emotionally Disturbed Children

SEC. 166. The heading of Article 1 (commencing with Section 5697) of Chapter 2.8 of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 167. Section 5697 of the Welfare and Institutions Code is repealed.

SEC. 168. Section 5697.5 of the Welfare and Institutions Code is amended and renumbered to read:

5694.7. When the director of mental health in a county is notified pursuant to Section 319.1 or 635.1, or Section 7572.5 of the Government Code about a specific case, the county mental health director shall assign the responsibility either directly or through contract with a private provider, to review the information and assess whether or not the child is seriously emotionally disturbed as well as to determine the level of involvement in the case needed to assure access to appropriate mental health treatment services and whether appropriate treatment is available through the minor's own resources, those of the family or another private party, including a third-party payor, or through another agency, and to ensure access to services available within the county's program. This determination shall be submitted in writing to the notifying agency within 30 days. If appropriate treatment is not available within the county's Bronzan-McCorquodale program, nothing in this section shall prevent the court from ordering treatment directly or through a family's private resources.

SEC. 169. Article 2 (commencing with Section 5698) of Chapter 2.8 of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 170. Article 6 (commencing with Section 5695) is added to Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code, to read:

Article 6. Regional Facilities for Seriously Emotionally Disturbed Wards

5695. The Legislature finds and declares the following:

(a) The Legislature has declared its intent to provide, at the local level, a range of appropriate mental health services for seriously emotionally disturbed minors. These programs include both outpatient and nonsecure residential care and treatment.

(b) The Legislature recognizes that, while some minors will benefit from this care and treatment, there exists a population within that group who have been adjudged wards of the juvenile court pursuant to Section 602 who are seriously emotionally disturbed, and

by lack of behavior control and offense history, are not benefiting from existing programs, including the 24-hour facilities currently being operated under juvenile court law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2).

(c) The Legislature finds that there are no treatment facilities specifically designed and operated to provide both intensive mental health treatment and behavior control to this population of wards in a secure setting. These wards are frequent failures in open residential care and when confined to traditional juvenile justice system facilities, disrupt programming, endanger themselves and others, and require intensive supervision including occasional isolation and provision of a one-to-one supervision ratio. The behavior and needs of this population affect the ability of the existing facilities to meet the program needs of the remainder of the population which is more appropriately detained or committed there.

(d) Psychiatric hospitals frequently refuse to accept these wards because of their offense history or their extremely disruptive behavior, because they do not always meet medical necessity for acute admission, or because the lengths of stay in inpatient programs are too limited in duration. Because of these problems, seriously emotionally disturbed minors adjudged to be wards pursuant to Section 602 do not receive the level of mental health care necessary to interrupt the cycle of emotional disturbance leading to assaultive or self-destructive behavior.

(e) The Legislature therefore declares its intent to establish regional facilities which will provide an additional dispositional resource to the juvenile justice system, and which will demonstrate the feasibility and effectiveness of providing the services described in this chapter to seriously emotionally disturbed minors who have been adjudged wards of the juvenile court pursuant to Section 602 and whose physical and mental treatment needs require a secure facility and program. It is also the intent of the Legislature to secure for the minors committed to such a facility, the protection, custody, care, treatment, and guidance that is consistent with the purpose of the juvenile court law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2).

5695.2. There may be established, on a regional basis, secure facilities which are physically and programmatically designed for the commitment and ongoing treatment of seriously emotionally disturbed minors who have been adjudged wards of the juvenile court pursuant to Section 602. No minor shall be committed to the facility for more than 18 months from the date of admission.

5695.5. A board of directors for a facility shall be established to provide oversight and direction to the design, implementation, and operation of the facility in order to ensure adherence to the statement of legislative intent in Section 5590 and to the overall goals and objectives of the facility.

5695.7. (a) The board of directors shall be composed of the chief

probation officer and the local mental health directors of each of the participating counties.

(b) The regional facilities shall operate under the administration of the onsite director who shall be directly responsible to the board of directors for adherence to all policies and procedures established by the board and to the intent of the Legislature stated in Section 5590.

5696. Prior to the opening of any regional facility, the board of directors shall develop written admission criteria, approved by the Department of the Youth Authority, for those minors who are most at risk of entering the adult criminal justice system as emotionally disordered offenders at high risk of committing predatory and violent crimes, including, but not limited to, the following requirements:

(a) The minor is at the time of commitment between the ages of 12 and 18 years, he or she has been adjudged to be a ward of the juvenile court pursuant to Section 602, and his or her custody has been placed under the supervision of a probation officer pursuant to Section 727.

(b) The ward is seriously emotionally disturbed as is evidenced by a diagnosis from the current edition of the Diagnostic and Statistical Manual of Mental Disorders and evidences behavior inappropriate to the ward's age according to expected developmental norms. Additionally, all of the following must be present:

(1) The behavior presents a danger to the community or self and requires intensive supervision and treatment, but the ward is not amenable to other private or public residential treatment programs because his or her behavior requires a secure setting.

(2) The symptomology is both severe and frequent.

(3) The inappropriate behavior is persistent.

5696.2. No ward shall be admitted to any regional facility described in this chapter who meets any of the following criteria:

(a) The ward has a primary substance abuse problem.

(b) The ward has a primary developmental disability.

(c) The ward requires an acute psychiatric hospital setting.

(d) The ward can benefit from or requires a level of treatment or confinement not provided at the facility.

(e) The ward suffers from a medical condition which requires ongoing nursing and medical care, beyond the level that the program can provide.

(f) The ward is under conservatorship established pursuant to Chapter 3 (commencing with Section 5350) of this part.

5696.5. Prior to the opening of a facility, the board of directors shall establish written program standards and policies and procedures, approved by the Department of the Youth Authority that address and include, but are not limited to, the following:

(a) A staffing number and pattern that meets the special behavior, supervision, treatment, health, and educational needs of the population described in this chapter. Staff shall be qualified to

provide intensive treatment and services and shall include, at a minimum:

(1) A project or clinical director, psychiatrist or psychologist, social worker, registered nurse, and recreation or occupational therapist.

(2) A pediatrician and dentist on an as-needed basis.

(3) Educational staff in sufficient number and with the qualifications needed to meet the population served.

(4) Child care staff in sufficient numbers and with the qualifications to meet the special needs of the population.

(b) Programming to meet the needs of all wards admitted, including, but not limited to, all of the following:

(1) Physical examinations on admission and ongoing health care.

(2) Appropriate and closely monitored use of all behavioral management techniques.

(3) The establishment of written, individual treatment and educational plans and goals for each ward within 10 days of admission and which are updated at least quarterly.

(4) Written discharge planning which addresses each ward's continued treatment, educational, and supervision needs.

(5) Regular, written progress records regarding the care and treatment of each ward.

(6) Regular and structured treatment of all wards, including, but not limited to, individual, group and family therapy, psychological testing, medication, and occupational, or recreational therapy.

(7) Access to neurological testing and laboratory work as needed.

(8) The opportunity for regular family contact and involvement.

(9) A periodic review of the continued need for treatment within the facility.

(10) Educational programming, including special education as needed.

5696.7. Wards shall be referred for admission to the director of a regional facility following screening and approval through a joint mental health and probation screening committee in the county which refers the minor. This screening process shall be defined in the standards, policies, and procedures governing the operation of the facility. The probation officer shall, in consultation and cooperation with the county mental health staff, process the ward's admission to the facility and implement the discharge plan.

5697. The regional board of directors shall contract with the county in which the regional facility is located for the provision of a public education program which will meet the educational requirements and needs of the wards admitted to the facility.

5697.2. The board of directors of a regional facility shall submit to the Director of the Youth Authority, a report which includes, at a minimum, a description of the regional facility, the population to be served, criteria for admission and release, program goals and services, staffing, a postrelease component, appropriate educational programming, an annual evaluation component, and a proposed

budget.

5697.5. The Director of the Youth Authority, in conjunction with the Director of Mental Health, shall adopt rules and regulations to establish, monitor, and enforce minimum standards for regional facilities.

SEC. 171. Article 7 (commencing with Section 5698) is added to Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code, to read:

Article 7. System of Care for Seriously Emotionally Disturbed Children and Youth

5698. It is the intent of the Legislature to encourage in each county a system of care for seriously emotionally disturbed children and youth. This system of care should be based upon the following principles:

(a) A defined range of interagency services, blended programs and program standards that facilitate appropriate service delivery in the least restrictive environment as close to home as possible. The system should use available and accessible intensive home and school-based alternatives.

(b) A defined mechanism to ensure that services are child centered and family focused with parental participation in all aspects of the planning and delivery of service.

(c) A formalized multiagency policy making council and an interagency case management services council. The roles and responsibilities of these councils should be specified in existing interagency agreements or memoranda of understanding, or both.

(d) A defined interagency case management system designed to facilitate services to the defined target population.

(e) A defined mechanism to ensure that services are culturally competent.

SEC. 172. Chapter 2.9 (commencing with Section 5699.10) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 173. Chapter 3 (commencing with Section 5700) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 174. Chapter 3 (commencing with Section 5700) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 3. FINANCIAL PROVISIONS

5700. (a) The Legislature recognizes that mental health services provided by county mental health programs are funded from the following general categories or sources of public funding:

(1) Funds received by counties from the Local Revenue Fund and county funds necessary to meet the federal maintenance of effort requirements.

(2) Funds from appropriations made to the department or for which the department is responsible for administering, which are

designated for local mental health services.

(3) Reimbursements through the Medi-Cal program for mental health services to Medi-Cal eligible individuals receiving mental health services from county mental health programs.

(4) Funds from county or local appropriations which are designated for local mental health services.

(b) The Legislature further recognizes that there are procedures and requirements which are unique to each category set forth in subdivision (a), as well as procedures and requirements which apply to all four categories.

5701. (a) 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 the county. 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 in paragraph (2) of subdivision (d), and current funding currently allocated thereto, in such a manner that progress toward equity is reasonably assured. However, no county allocation may be decreased for this purpose.

(b) 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.

(c) To achieve equity of funding, available funding for local mental health programs, beyond the realignment base, shall be distributed to counties by application of the following formula:

(1) The department shall calculate the relative need of each county by determining each county's percentage share of the state's total population and each county's percentage share of the state's total cash grant certified eligible population residing in the county and adding and averaging these two percentages.

(2) The department shall calculate the current relative resources of each county by determining the county's percentage share of all mental health realignment funds distributed by the Controller and all funds allocated by the department, except funds allocated for pilot programs. For the 1991–92 fiscal year, funds for institutions for mental disease are not to be included as current relative resources.

(3) The department shall calculate the percentage difference between the county's current relative resources and current relative need.

(4) The department shall adjust the calculation by multiplying a constant factor by each county's current relative resources percentage and adding this calculation to each county's absolute difference figure. The adjustment shall be the computed amount of adjustment needed to bring all absolute differences to a positive

value, while retaining each county's relative position to all other counties.

(5) A positive percentage shall thus be obtained for each county and converted and adjusted to a percentage figure so that the total percentages for all counties equal 100 percent. This percentage equals the percentage of the funds to be distributed.

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

(1) A county's "poverty population" means county residents who are cash-grant certified eligible under the Medi-Cal program as determined by the State Department of Health Services.

(2) "Relative need" means the average of both a county's percentage share of the state's total population and the county's percentage share of the state poverty population.

(3) "Total resources" means mental health realignment funds advanced by the Controller and funds allocated to counties by the State Department of Mental Health.

(4) "Equity" means a county's percentage share of current relative resources is equal to its percentage share of current relative need.

5701.2. (a) The department shall maintain records of any transfer of funds or state hospital beds made pursuant to Chapter 1341 of the Statutes of 1990, and shall provide a written summary of any of these transfers to the Legislature and the California Conference of Local Mental Health Directors on a quarterly basis.

(b) Commencing with the 1991–92 fiscal year, the department shall maintain records that set forth that portion of each county's allocation of state mental health moneys which represents the dollar equivalent attributed to each county's state hospital beds or bed days, or both, which were allocated as of May 1, 1991. A written summary of these records shall be provided to the Legislature and the California Conference of Local Mental Health Directors within 30 days after the enactment of the annual Budget Act.

5701.3. It is the intent of the Legislature that this chapter not affect the responsibilities to fund psychotherapy and other mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Counties shall continue to receive allocations from specifically appropriated funds for psychotherapy and other mental health services provided by the counties in accordance with that chapter.

5701.4. Costs that were reimbursed, prior to July 1, 1991, from the local assistance appropriation contained in Item 4440-101-001 of the annual Budget Act, shall be reimbursed from funds received by counties pursuant to this chapter.

5701.5. City-operated Bronzan-McCorquodale programs paid by the state under Section 5615 shall be directly funded in accordance with this chapter.

5702. For the purposes of this part, the definition of maintenance of effort contained in Section 17608.05 shall apply.

5703. Nothing in this chapter shall prevent a county, or counties acting jointly, from appropriating additional funds for mental health services. In no event shall counties be required to appropriate more than the amount required under the provisions of this chapter.

5704. Funds described in paragraphs (1) and (2) of subdivision (a) of Section 5700 shall be deposited in the mental health account of the local health and welfare trust fund and shall only be used to fund expenditures for the costs of mental health and related services, and shall not be used to fund expenditures for costs excluded by Section 5710 or for costs specifically excluded from funding from this source by any other provision of law.

5704.5. (a) It is the intent of the Legislature that special consideration be given to children's services in funding county services to expand existing programs or to establish new programs.

(b) A county may not decrease the proportion of its funding expended for children's services below the proportion expended in the 1983–84 fiscal year unless a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 has significantly decreased.

5704.6. (a) Except as provided in subdivision (c), each county shall allocate for services to persons under age 18, 50 percent of the amount of any funding augmentation received for new or expanded mental health programs until the amount expended for mental health services to persons under age 18 equals not less than 25 percent of the county's gross budget for mental health or not less than the percentage of persons under age 18 in the total population of the county, whichever percentage is less. Once achieved, this minimum ratio shall be maintained continuously thereafter.

(b) As used in this section, the term "new or expanded mental health programs" does not include any programs which are required by statute, or programs which provide alternatives to hospitalization for patients of state hospitals.

(c) From each funding augmentation for new or expanded mental health programs, a county may allocate to persons under age 18 an amount less than the percentage required in subdivision (a) when a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 does not exist or is less than the need for services to one or more specified groups of adults.

5705. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in this section, be given preference in contracts for services under this division.

(b) Negotiated net amount or rates may be used as the cost of services in contracts between the state and the county or contracts between the county and a subprovider of services, or both, 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. 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 performance contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. 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 local mental health programs any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. All participating governmental funding sources 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 and 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 local mental health program and the local mental health program shall report to the State Department of Mental Health any information required by the department in accordance with procedures established by the Director of Mental Health.

(c) 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 section.

5706. Notwithstanding any other provision of law, the portions of the county mental health services performance contract which become a contractual arrangement between the county and the department 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.

5707. Funds appropriated to the department which are designated for local mental health services and funds which the department is responsible for allocating or administering, including,

but not limited to, federal block grants funds, shall be expended in accordance with this section and Sections 5708 to 5717, inclusive, except when there are conflicting federal requirements, in which case the federal requirements shall be controlling.

5708. To maintain stability during the transition, counties which contracted with the department during the 1990–91 fiscal year on a negotiated net amount basis are hereby authorized to continue to use the same funding mechanism. The Medi-Cal rates for the 1990–91 fiscal year shall be used as an interim reimbursement mechanism until the contracts for the 1991–92 fiscal year are fully approved.

5709. Regardless of the funding source involved, fees shall be charged in accordance with the ability to pay for mental health services rendered but not in excess of actual costs in accordance with Section 5720.

5710. (a) Charges for the care and treatment of each patient receiving service from a county mental health program shall not exceed the actual or negotiated cost thereof as determined or approved by the Director of Mental Health in accordance with standard accounting practices. The director may include the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a patient, his or her estate, or his or her responsible relatives to pay the charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

(b) The director may delegate to each county all or part of the responsibility for determining the liability of patients rendered services under a county mental health program other than in a state hospital, and the liability of their estates or responsible relatives to pay the charges, and all or part of the responsibility for collecting the charges. If this responsibility is delegated by the director, the director shall establish and maintain the policies and procedures for making the determinations and collections, and each county to which the responsibility is developed shall comply with the policy and procedures.

(c) The director shall prepare and adopt a uniform sliding scale patient fee schedule to be used in all mental health agencies for services rendered to each patient. In preparing the uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for community mental health program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, the director may adopt a separate fee schedule for the state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies.

5711. Whenever there is a final federal audit exception against the state resulting from expenditure of federal funds by individual counties, the State Department of Mental Health or the State

Department of Health Services may request the Controller's office to offset the county's allocation from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund by the amount of the exception. The Controller shall be provided evidence that the county has been notified of the amount of the audit exception no less than 30 days before the offset is to occur. The State Department of Mental Health and the State Department of Health Services shall involve the appropriate counties in developing responses to any draft federal audit reports which may directly impact the counties.

5712. The department shall contract with counties for the funds appropriated to, and allocated by, the department pursuant to paragraph (2) of subdivision (a) of Section 5700 in accordance with the following:

(a) The net cost of all services specified in the contract between the counties and the department shall be financed on a basis of 90 percent state funds and 10 percent county funds except for services to be financed from other public or private sources as indicated in the contracts.

(b) The cost requirement for local financial participation pursuant to this section shall be waived for all counties with a population of 125,000 or less based on the most recent available estimates of population data as determined by the Population Branch Unit of the Department of Finance.

5713. Advances for funding mental health services may be made by the Director of Mental Health from funds appropriated to the department for local mental programs and services specified in the annual Budget Act. Any advances made pursuant to this section shall be made in the form and manner the Director of Mental Health shall determine. When certified by the Director of Mental Health, advances shall be presented to the Controller for payment. Each advance shall be payable from the appropriation made for the fiscal year in which the expenses upon which the advance is based are incurred. The advance may be paid monthly in 12 equal increments but the total amount advanced in one fiscal year shall not exceed 95 percent of the county's total allocation for that year.

5714. To continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall be paid for the county from funds not designated for mental health services.

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations

of the State Department of Mental Health.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

5715. Subject to the approval of the department, at the end of the fiscal year, a county may retain unexpended funds allocated to it by the department from funds appropriated to the department, with the exception of block grant funds, exclusive of the amount required to pay for the care of patients in state hospitals, for 12 months for expenditure for mental health services in accordance with this part.

5716. Counties may contract with providers on a negotiated rate or negotiated net amount basis for services funded from amounts allocated to the county by the department in the same manner as set forth in Section 5705, except that the negotiated rate or net amount for Short-Doyle Medi-Cal contracts shall be approved by the department. If the negotiated rate or amount for Short-Doyle Medi-Cal contracts is not approved by the department, reimbursement to the county shall be in accordance with applicable provisions of this chapter and department regulation.

5717. (a) Expenditures which may be funded from amounts allocated to the county by the department from funds appropriated to the department shall include negotiated rates and net amounts approved by the department; salaries of personnel; approved facilities and services provided through contract; operation, maintenance and service costs including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on the facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the California Conference of Local Mental Health Directors for attendance at regular meetings of these conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the Organization of Mental Health Advisory Boards; expenditures included in approved countywide cost allocation plans submitted in accordance with the Controller's guidelines, including, but not limited to, adjustments of prior year estimated general county overhead to actual costs, but excluding allowable costs otherwise compensated by state funding; net costs of conservatorship investigation, approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchaser or construction of buildings except for equipment items and remodeling expense as

may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board, except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

(b) The director may make investigations and audits of expenditures the director may deem necessary.

(c) With respect to funds allocated to a county by the department from funds appropriated to the department, the county shall repay to the state amounts found not to have been expended in accordance with the requirements set forth in this part. Repayment shall be within 30 days after it is determined that an expenditure has been made that is not in accordance with the requirements. In the event that repayment is not made in a timely manner, the department shall offset any amount improperly expended against the amount of any current or future advance payment or cost report settlement from the state for mental health services. Repayment provisions shall not apply to Short-Doyle funds allocated by the department for fiscal years up to and including the 1990–91 fiscal year.

5718. (a) (1) This section and Sections 5719 to 5724, inclusive, shall apply to mental health services provided by counties to Medi-Cal eligible individuals. Counties shall provide services to Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services rendered to the mentally ill.

(2) To the extent permitted under federal law, funds deposited into the local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund may be used to match federal medicaid funds in order to achieve the maximum federal reimbursement possible for services pursuant to this chapter. If a county applies to use local funds, the department may enforce any additional federal requirements that use may involve, based on standards and guidelines designed to enhance, protect, and maximize the claiming of those resources.

(3) The standards and guidelines for the administration of mental health services to Medi-Cal eligible persons shall be based on federal medicaid requirements.

(b) With regard to each person receiving mental health services from a county mental health program, the county shall determine whether the person is Medi-Cal eligible and if determined to be Medi-Cal eligible, the person shall be referred when appropriate to a facility, clinic, or program which is certified for Medi-Cal reimbursement.

(c) With regard to county operated facilities, clinics, or programs for which claims are submitted to the department for Medi-Cal reimbursement for mental health services to Medi-Cal eligible individuals, the county shall ensure that all requirements necessary for Medi-Cal reimbursement for these services are complied with,

including, but not limited to, utilization review and the submission of year-end cost reports.

(d) Counties shall certify to the state that required matching funds are available prior to the reimbursement of federal funds.

5719. Each public or private facility or agency providing local mental health services pursuant to a county performance contract plan shall make a written certification within 30 days after a patient is admitted to the facility as a patient or first given services by such a facility or agency, to the local mental health director of the county, stating whether or not each of these patients is presumed to be eligible for mental health services under the California Medical Assistance Program.

5720. (a) The director, subject to the approval of the Director of Health Services, shall establish the amount of reimbursement for services provided by county mental health programs to Medi-Cal eligible individuals.

(b) In establishing the amount of reimbursement for local mental health services, no amount shall exceed the lower of each individual provider's actual cost, charges, or 125 percent of the statewide weighted average of the cost of services as reflected in the most recently completed cost reports. This subdivision shall not apply to prepaid health plans.

(c) The director, subject to the availability of funds, and with the concurrence of the Director of Health Services, may approve a waiver of the 125 percent limitation set forth in subdivision (b) requested by the board of supervisors of a county, if the county demonstrates that the imposition of the 125 percent limitations will result in a substantial inability to provide mental health services.

(d) Notwithstanding the provisions of this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by that agreement.

5721. Except as otherwise provided in this section, in determining the amounts which may be paid, fees paid by persons receiving services or fees paid on behalf of persons receiving services by the federal government, by the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, and by other public or private sources, shall be deducted from the costs of providing services. However, a county may negotiate a contract which permits a mental health care provider to retain unanticipated funds above the budgeted contract amount specified in the county mental health plan, provided that the unanticipated revenues are utilized for the mental health services specified in the contract. If a provider is permitted by contract to retain unanticipated revenues above the budgeted amount, the mental health provider shall specify the services funded by those revenues in the year end cost report submitted to the county. A county shall not permit the retention of any fees paid by private

resources on behalf of Medi-Cal beneficiaries without having those fees deducted from the costs of providing services. Whenever feasible, mentally disordered persons who are eligible for mental health services under the California Medical Assistance Program shall be treated in a facility approved for reimbursement in that program. General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as "fees paid by persons" or "fees paid on behalf of persons receiving services" under this section and the contributions shall not be applied in determining the amounts to be paid. These unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the California Medical Assistance Program.

5722. (a) The department shall have responsibility, as delegated by the State Department of Health Services, for conducting investigations and audits of claims and reimbursements for expenditures for mental health services provided by county mental health programs to Medi-Cal eligible individuals.

(b) The amount of the payment or repayment of federal funds in accordance with audit findings pertaining to Short-Doyle mental health services shall be determined by the State Director of Health Services pursuant to the existing administrative appeals process of the State Department of Health Services.

5723. The provisions of subdivision (a) of Section 14000 shall not be construed to prevent providers of mental health services pursuant to this part from also being providers of medical assistance mental health services for the purposes of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9. Clinics providing mental health services pursuant to this part shall not be required to be licensed as a condition to reimbursement for providing such medical assistance mental health services.

5723.5. Nothwithstanding any other provision of state law, and to the extent permitted by federal law and consistent with federal regulations governing these claims, the state may seek federal reimbursement for back claims under the Short-Doyle Medi-Cal program.

5724. (a) The department, in consultation with the California Conference of Local Mental Health Directors, shall as expeditiously as possible, but no later than December 31, 1991, develop a new ratesetting methodology for use in the Short-Doyle Medi-Cal system. The department shall transmit the proposed methodology to the State Department of Health Services to be incorporated into the state's Medi-Cal plan for the following fiscal year. It is intended that this rate system be in place for the 1992–93 fiscal year, to the extent permitted by federal law. The proposal shall include all of the following:

(1) Maximum appropriate reimbursement for administrative support costs including, but not limited to, quality assurance, utilization review, technical assistance, training, cost accounting,

intake processing, outreach services, and direct administrative activities.

(2) Greater reliance on prospective rates which may be regionally based and which shall not be subject to retrospective adjustment and which will reduce the administrative burden on the counties and the state related to cost reporting and auditing consistent with the overall goals of realignment.

(3) Alternative methodologies for establishing reimbursement limits.

(b) This methodology shall not be implemented until it has received any necessary federal approvals.

SEC. 175. Chapter 3.1 (commencing with Section 5725) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 176. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. (a) The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the California Council on Mental Health and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session except for regulations pertaining to psychiatric health facilities. For regulations pertaining to psychiatric health facilities, the vote by the conference, following consultation, shall be only advisory to the State Department of Mental Health.

(b) If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on Mental Health, and a member designated by the State Advisory Health Council.

(c) (1) From July 1, 1991, to June 31, 1993, inclusive, the conference shall not approve regulations of the State Department of Mental Health. The impact on this subdivision of regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(2) The department shall continue during that period to involve the conference in the development of all regulations which affect local mental health programs, prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

SEC. 177. Section 5750.1 of the Welfare and Institutions Code is

amended to read:

5750.1. Notwithstanding Section 5750, any standard, rule, or policy, not directly the result of a statutory or administrative law change, adopted by the department or county during the term of an existing county performance contract shall not apply to the negotiated rate and net amount terms of that contract under Section 5705.2, but shall only apply to contracts established after adoption of the standard, rule, or policy.

SEC. 178. Section 5751 of the Welfare and Institutions Code is amended to read:

5751.

(a) Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. These standards may include the maintenance of records of service which shall be reported to the State Department of Mental Health in a manner and at such times as it may specify.

(b) Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker, marriage, family and child counselor, registered nurse, or hospital administrator, who meets standards of education and experience established by the Director of Mental Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2051 of the Business and Professions Code.

(c) The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 179. Section 5751.2 of the Welfare and Institutions Code is repealed.

SEC. 180. Section 5751.3 of the Welfare and Institutions Code is repealed.

SEC. 181. Section 5752 of the Welfare and Institutions Code is repealed.

SEC. 182. Section 5753 of the Welfare and Institutions Code is repealed.

SEC. 183. Section 5754 of the Welfare and Institutions Code is repealed.

SEC. 184. Section 5757 of the Welfare and Institutions Code is amended to read:

5757. (a) There is hereby established the California Conference of Local Mental Health Directors, with which the Director of Mental Health shall consult in establishing standards, rules, and regulations pursuant to this division.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which

becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 185. Section 5758 of the Welfare and Institutions Code is amended to read:

5758. (a) The California Conference of Local Mental Health Directors shall consist of all regularly appointed directors of community mental health services and program chiefs as defined by regulation. It shall organize and shall annually elect a president, a vice president, and a secretary, who shall serve as the executive committee of the conference. The president of the conference, after consultation with the Director of Mental Health, may appoint, for the purpose of advising the director, such other committees of the conference as may from time to time be necessary.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 186. Section 5759 of the Welfare and Institutions Code is amended to read:

5759. (a) Meetings of the conference for the purposes of this division shall be called by the Director of Mental Health, who shall give the members at least 10 days' notice of the meetings. At official sessions of meetings of the conference the president of the conference shall preside. However, the conference may hold additional sessions as may be determined by the executive committee of the conference at which the president or other members of the conference shall preside. Each community mental health service shall have one vote cast by the director or his designee.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 187. Section 5760 of the Welfare and Institutions Code is amended to read:

5760. (a) Actual and necessary expenses incurred by a member as incident to his or her attendance at meetings of the conference shall be a legal charge against the local government unit which he or she represents. Actual and necessary expense incurred by members of the conference incident to attendance at special meetings of the committees of the conference called by the Director of Mental Health shall be a legal charge against any funds available for the administration of this division.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 188. Section 5761 of the Welfare and Institutions Code is amended to read:

5761. (a) The State Department of Mental Health, after

approval by the California Conference of Local Mental Health Directors, may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by the department and for the establishment and maintenance of field training centers.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 189. Section 5762 of the Welfare and Institutions Code is amended to read:

5762. (a) The President of the California Conference of Local Mental Health Directors, for the purposes of this division, may, after consultation with the Director of Mental Health, appoint psychiatric and other consultants deemed necessary who shall serve without pay but who shall receive actual and necessary travel and other expenses incurred.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 190. Section 5763 of the Welfare and Institutions Code is amended to read:

5763. (a) There is a California Council on Mental Health to advise and assist the Legislature and the Director of Mental Health in carrying out the provisions of this division. The State Department of Mental Health shall cooperate fully with the California Council on Mental Health by rendering efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its powers and duties.

(b) The attachment of the California Council on Mental Health to the State Department of Mental Health shall not limit the council's scope of concern to mental health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in subdivision (c) of Section 5764.

(c) The administrative attachment of the council to the State Department of Mental Health shall not be construed to interfere in any way with the provisions of Section 5766.2 requiring all personnel employed by the council to be responsible to the council.

(d) The council shall consist of 15 appointed voting members. There shall be one member who shall be a member of the California Conference of Local Mental Health Directors. There shall be five members chosen from among the following professions: general medicine, psychiatry, psychology, social work, marriage, family and child counseling, sociology, nursing, and mental health administration. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment,

diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. No more than one appointee from each of these categories shall be selected. Nine members shall be representative of the public interest in mental health of which at least two shall be persons receiving or who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital, or any other public or private nonprofit mental health agency, and two of which shall be the parents, spouse, sibling, or adult children of persons receiving or who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital or any other public or private nonprofit mental health agency. At least one of the public interest members shall be a local mental health advisory board member at the time of appointment; one shall be a member of a county board of supervisors; one shall be a lawyer; and one shall be an expert in fiscal management. No public interest members shall be members of the professions named above.

(e) Appointments shall reflect a balance of geographic, ethnic, racial, age, linguistic, socioeconomic and sexual factors. Appointees shall have a demonstrated interest in and knowledge of statewide mental health services.

(f) The Governor shall appoint the following nine members of the council: two professional members who are not psychiatrists; two members of the public who are receiving or who have received mental health services; two members of the public who are the parents, spouse, sibling, or adult children of persons receiving or who have received mental health services; and three public members. The Senate Rules Committee shall appoint the following three members of the council: one psychiatrist; one professional member who is not a psychiatrist; and one member of the general public. None of the members or the spouse of a member shall be an employee of a state department within the Health and Welfare Agency. The Speaker of the Assembly shall appoint the following three members of the council: two professional members and one member of the general public. Each member shall hold office for three years.

(g) If prior to the expiration of a term a member ceases to retain the status which qualified him or her for appointment on the council, his or her membership on the council shall terminate and there shall be a vacancy on the council.

(h) The members of the California Council on Mental Health shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter.

(i) The California Council on Mental Health shall meet at least quarterly, and on call of the council chair as often as necessary to fulfill its duties. All meetings and records of the California Council

on Mental Health shall be open to the public.

(j) The California Council on Mental Health shall, by majority vote of the voting members, elect its own chair from among the 15 appointed members, and shall establish such committees as it deems necessary or desirable. The council chair shall appoint all members of committees of the California Council on Mental Health.

(k) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 191. Section 5764 of the Welfare and Institutions Code is amended to read:

5764. The California Council on Mental Health shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To advise the Director of Mental Health on the development of the state three-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary. The review shall include comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with mental disabilities, including the Departments of Education, Rehabilitation, Health Services, Transportation, Social Services, Developmental Services, Employment, Youth Authority, Corrections, and Parks and Recreation and the Office of Statewide Health Planning and Development and may include public hearings. The California Council on Mental Health may prepare any necessary reports to the Governor, the Legislature, and the Director of Mental Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage the coordination of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ administrative, technical, and other personnel necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the Department of Personnel Administration for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(j) To act as the state council required by Public Law 94-63 to advise the Director of Mental Health on the development of the Community Mental Health Services Plan. For the purposes of implementing this function of the California Council on Mental Health only, the Director of Mental Health or his or her designee and the Secretary of the Health and Welfare Agency or his or her designee shall serve on the council. Additional functions of the council under this section shall include: (1) to develop and implement procedures for conducting the annual review of and for publicizing the Community Mental Health Services Plan; and (2) to submit as part of the state plan, the council's report resulting from such annual review.

(k) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 192. Section 5766 of the Welfare and Institutions Code is amended to read:

5766. (a) The California Council on Mental Health may utilize such staff of the State Department of Mental Health as are available, and staff of all other public or private agencies which have an interest in the mental health of the public and which are able and willing to provide these services.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 193. Section 5766.1 of the Welfare and Institutions Code is amended to read:

5766.1. (a) Within the limit of funds allotted for such purposes, the California Council on Mental Health chair, with the concurrence of a majority of the California Council on Mental Health shall appoint any staff it may require.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 194. Section 5766.2 of the Welfare and Institutions Code is amended to read:

5766.2. (a) The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. All personnel employed by the California Council on Mental Health shall be solely responsible, organizationally and administratively, to the state council. The state

council shall have responsibility for the selection, hiring, and supervision of all such personnel.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 195. Section 5767 of the Welfare and Institutions Code is amended to read:

5767. (a) All departments of state government, as well as each facility named in the county performance contract, are encouraged to cooperate with, and provide any information, records, documents, and studies the California Council on Mental Health may request.

(b) This section shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 196. Chapter 4.1 (commencing with Section 5775) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 197. Part 4 (commencing with Section 5850) is added to Division 5 of the Welfare and Institutions Code, to read:

PART 4. CHILDREN'S MENTAL HEALTH SERVICES ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

5850. This part shall be known and may be cited as the Children's Mental Health Services Act.

5851. It is the intent of the Legislature to do all of the following:

(a) To phase in the system developed in the demonstration project under Chapter 7 (commencing with Section 5575) statewide, once final results are available from the project and assuming that these results demonstrate achievement of benefits as described in subdivision (d) of Section 5565.11. The Legislature recognizes that a major component of this system began in the 1984–85 fiscal year through the implementation of Chapter 1474 of the Statutes of 1984.

(b) To create and fund a coordinated comprehensive mental health services system for children with serious emotional disturbance and to their families or foster families in participating counties.

(c) To develop a system which will include joint evaluation of the child, and give priority to all of the following:

(1) Enabling the child to remain at home whenever possible.

(2) Providing placement in the least restrictive and least costly setting consistent with the child's needs.

(3) Enabling the child to receive out-of-home services in as close a proximity as possible to the child's usual residence.

(d) To separately identify and categorize funding for these services.

CHAPTER 2. STATE ADMINISTRATION

5852. There is hereby established a children's comprehensive mental health services system for children with serious emotional disturbance that is a comprehensive system of coordinated care based on the demonstration project under Chapter 7 (commencing with Section 5575), as added by Chapter 160 of the Statutes of 1987, and the 1983 State Department of Mental Health planning model for children's services. Each participating county shall adapt the model to local needs and priorities.

5853. County participation under this part shall be voluntary.

5854. The State Department of Mental health may contract with counties whose programs have been approved by the department in accordance with Section 5855. A county may request to participate under this chapter each year according to the terms set forth in Section 5705 for the purpose of establishing a three-year program proposal for developing and implementing a children's comprehensive mental health services system. The contract shall be negotiated on a yearly basis, depending on the results of each implementation phase.

5855. The county program proposal, in its entirety, as well as the first-, second-, and third-year components, is subject to approval by the State Department of Mental Health. A county may be approved for participation when readiness is determined by the State Department of Mental Health and when the department determines that the program proposals submitted adequately meet program protocols which shall be developed by the State Department of Mental Health.

5856. The county program proposal shall be a joint proposal with all affected local agencies and shall include all of the following:

(a) The elements as described in Chapter 3 (commencing with Section 5859).

(b) Those elements that the county feels appropriate as described in the proposed planning model for the continuum of care for emotionally disturbed children published by the State Department of Mental Health in 1983.

(c) A detailed description of the cost benefit and cost avoidance of the program proposal.

5857. The State Department of Mental Health shall establish an advisory group comprised of, but not limited to, representatives from the State Departments of Education, Social Services, Mental Health, and the Youth Authority, representatives from the Conference of Local Mental Health Directors, California Council on Mental Health, County Welfare Director's Association, Chief Probation Officers Association, School Administrators Association, and a representative of the service providers from the private Sector. The function of the advisory group shall be to advise and assist the state in the development of a coordinated, comprehensive mental health services system under this part and other duties as defined by the

Director of Mental Health.

5858. The Legislature recognizes that the development of the comprehensive system under this part is different for small counties under 100,000 population. In recognition of that fact, the State Department of Mental health shall establish a task force consisting of representatives from these small counties, from the Conference of Mental Health Directors, Conference of Welfare Directors, School Administrators Association and Chief Probation Officers Association to develop appropriate modifications and requirements of the model for these small counties. Recognition shall be given to the administrative costs involved in small county program development.

CHAPTER 3. COUNTY REQUIREMENTS

5859. Each county wishing to participate under this part shall develop a three-year program proposal for phasing in the children's comprehensive mental health services system. The three-year program proposal shall include all of the following:

(a) The components of the system the county proposes to implement in the first year which shall include a case management component.

(b) The components of the system the county intends to implement in the second year.

(c) The remaining components of the system the county intends to implement in the third year. All components shall be in place by the end of the third year.

5860. In addition, county program proposals shall contain all of the following:

(a) Use of existing service capabilities within the various agencies currently serving children's needs in that county.

(b) Interagency collaboration by all publicly funded agencies for children experiencing emotional disturbances.

(c) Appropriate written interagency protocols and agreements.

(d) Services for the most difficult to place children.

(e) Services permitting the child to reside in his or her usual family setting, whenever possible, in the interest of the child.

(f) Where a joint evaluation indicates that out-of-home care and treatment is required, insure that these services are provided in the least restrictive setting consistent with effective services and in as close proximity as possible to the child's usual residence.

5861. (a) No later than July 1 of each year, each county that wishes to participate in the program under this part shall have a program proposal of the development of a coordinated system of services to address the needs of children with serious emotional disturbance.

(b) Each county program proposal shall include protocols developed in the county for case assessment designed to do all of the following:

(1) Determine the least restrictive appropriate mental health

treatment setting for each child.

(2) Plan and facilitate the provision of needed services for the child and family when necessary and monitor those services.

(3) Provide methods for client and family advocacy to occur within the system.

(c) Each county that wishes to participate in the program under this part shall initiate discussions with other public agencies serving children with serious emotional disturbance, including, but not limited to, special education, foster care, and child protective and juvenile justice services to identify common needs and joint planning opportunities.

5862. Participating counties shall, prior to the submission of their program proposal, develop baseline data on children served by the county in the mental health services system, social services system, the juvenile justice system, and the special education system. Data shall include, but not be limited to, current expenditures for out-of-home care, nonpublic school placements and state hospital costs. This baseline data shall be submitted to the department as part of their program proposal.

5863. Counties shall demonstrate a maintenance of effort in children's services. Any reduction of existing Bronzan-McCorquodale children's services shall be identified and justified in the program proposal developed under this part.

5864. Each participating county shall do both of the following:

(a) Develop an interagency children's policy council. The members of the council shall include, but not be limited to, the directors of major participating local government agencies, such as juvenile justice, district attorney, public defender, county counsel, sheriff, superintendent of county schools, public social services, mental health, and a representative of the private sector.

(b) Establish an interagency case management council.

5865. The State Department of Mental Health shall have data available on the services provided through this chapter by March 1 of each year, including service utilization data, expenditures, and demonstrated cost savings and cost avoidance in the participating counties.

SEC. 198. Part 5 (commencing with Section 5900) is added to Division 5 of the Welfare and Institutions Code, to read:

PART 5. INSTITUTIONS FOR MENTAL DISEASE

CHAPTER 1. GENERAL PROVISIONS

Article 1. Legislative Findings and Intent

5900. This part is intended to organize and finance mental health services in skilled nursing facilities designated as institutions for mental disease, in a way that will promote the well-being of the residents. It is furthermore intended to effectively utilize existing

resources in the delivery of mental health services to severely and persistently mentally disabled persons; to ensure continued receipt of federal funds; to minimize the fiscal exposure of counties; to maintain state responsibility for licensing and certification; to maintain services to individual county consumers at the 1990–91 fiscal year levels; and to provide a mechanism for the orderly transition of programmatic and fiscal responsibility from the state to the counties, in a way that will maintain the stability and viability of the industry.

5901. (a) The Legislature finds that the following issues relating to program operation must be resolved prior to the full assumption of responsibility for institutions for mental disease program monitoring and reimbursement procedures by the counties:

(1) The information regarding the program is inadequate to accurately allocate funding to the counties without significant disruption of patient care.

(2) There is currently no administrative mechanism whereby all counties can immediately assume these responsibilities without endangering the health and safety of the persons being served.

(b) (1) During the 1991–92 fiscal year, the sum of eighty-seven million seven hundred twenty-seven thousand dollars ($87,727,000) shall be made available from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the department for support of institutions for mental disease.

(2) For the 1991–92 fiscal year, the department shall issue a preliminary allocation of at least fifty-seven million four hundred fifty thousand dollars ($57,450,000) of the amount identified in paragraph (1). In developing a preliminary allocation, the department shall utilize a methodology that will minimize disruption of services to persons being served and that will continue access at the 1990–91 fiscal year level.

(3) During the 1991–92 fiscal year, the department shall administer institution for mental disease resources remaining from the amount identified in paragraph (1) after the allocation described in (2) has been made, as a risk pool on behalf of all the counties. Effective July 1, 1991, the department shall enter into contracts with institutions for mental disease providers at the 1990–91 fiscal year contract bed level. These resources shall be made available to all counties.

(4) The department shall establish a method for the identification of persons, by county, residing in institutions for mental disease, and notification of counties of their program and fiscal responsibilities.

(c) The Department of Finance may authorize a loan of up to twenty million dollars ($20,000,000) from the General Fund for deposit into the Institutions for Mental Disease Account of the Mental Health Facilities Fund established pursuant to Section 17602.05, for use by the State Department of Mental Health in implementing this part.

Article 2. Interim Contracting Mechanism

5902. (a) In the 1991–92 fiscal year, funding sufficient to cover the cost of the basic level of care in institutions for mental disease at the rate established by the State Department of Health Services shall be made available to the department for skilled nursing facilities, plus the rate established for special treatment programs. The department may authorize a county to administer institutions for mental disease services if the county with the consent of the affected providers makes a request to administer services and an allocation is made to the county for these services. The department shall continue to contract with these providers for the services necessary for the operation of the institutions for mental disease.

(b) In the 1992–93 fiscal year, the department shall consider county-specific requests to continue to provide administrative services relative to institutions for mental disease facilities when no viable alternatives are found to exist.

(c) (1) By October 1, 1991, the department, in consultation with the California Conference of Local Mental Health Directors and the California Association of Health Facilities, shall develop and publish a county-specific allocation of institutions for mental disease funds which will take effect on July 1, 1992.

(2) By November 1, 1991, counties shall notify the providers of any intended change in service levels to be effective on July 1, 1992.

(3) By April 1, 1992, counties and providers shall have entered into contracts for services at the rate described in subdivision (e) for the 1992–93 fiscal year at the level expressed on or before November 1, 1991, except that when there is agreement between the affected providers and the county on all substantive contract issues by April 1, 1992, the county shall be permitted additional time, until June 1, 1992, to complete the processing of the contract.

(4) Where contracts for service at the level committed to on November 1, 1991, have not been completed by April 1, 1992, the funds allocated to those counties shall revert for reallocation in a manner that shall promote equity of funding among counties. During the 1992–93 fiscal year, these funds shall be used to purchase institution for mental disease/skilled nursing/special treatment program services.

(d) On or before April 1, 1992, counties may complete contracts with facilities for the direct purchase of services in the 1992–93 fiscal year. Those counties for which facility contracts have not been completed by that date shall be deemed to continue to accept financial responsibility for those patients during the subsequent fiscal year at the rate specified in subdivision (a).

(e) As long as contracts with institutions for mental disease providers requires the facilities to maintain skilled nursing facility licensure and certification, reimbursement for basic services shall be at the rate established by the State Department of Health Services for skilled nursing facilities, plus the rate established for special

treatment programs.

(f) In the 1993–94 fiscal year and thereafter, the department shall consider requests to continue administrative services related to institutions for mental disease facilities from counties with a population of 150,000 or less based on the most recent available estimates of population data as determined by the Population Research Unit of the Department of Finance.

5903. To the extent permitted by federal law, institution for mental disease providers may collect SSI/SSP benefits from a client or a client's payee. The amount to be invoiced shall be the amount of the client's SSI/SSP benefits, minus the personal and incidental allowance amount as established by the Social Security Administration. The administrative mechanism for collection of SSI/SSP benefits, including designation of the party responsible for collection, shall be determined by negotiation between the counties and the providers.

5904. During the 1991–92 fiscal year, counties shall be held harmless by the state, for costs incurred due to changes in state or federal regulation, audit findings, adjustments in rates and other circumstances outside the influence of counties, to the extent they impact the cost of basic level of care in those facilities which contract with the State Department of Mental Health. The State Department of Mental Health and the State Department of Health Services shall consult with counties regarding matters involving federal audit findings relating to nursing homes and their patients needing mental health care. The department shall notify the Joint Legislative Budget Committee whenever any federal audit or cumulative federal audit results in a potential county liability that exceeds five million six hundred thousand dollars ($5,600,000).

5905. (a) Funds that remain unspent at the close of the fiscal year, after final determination of costs, shall be made available to the counties in accordance with the methods determined by the director pursuant to Section 5906, for mental health expenditures. However, to the extent that unforeseen circumstances arise during the 1991–92 fiscal year as described in Section 5903, the department shall use these unspent funds to cover the increased costs for the basic level of care.

(b) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

Article 3. Procedures for the Transfer of Responsibility from the State to the Counties

5906. (a) By August 1, 1991, the director, in consultation with the California Conference of Local Mental Health Directors and representatives of the California Association of Health Facilities, shall develop county resource allocation methodologies for persons

residing in institutions for mental disease. In developing the resource allocation methods the director shall consider institution for mental disease client usage data from April 1, 1990, to March 31, 1991, inclusive. By October 1, 1991, the department shall adopt an allocation method and notify the counties of the resources they will receive from the total institution for mental disease resources available.

(b) This section shall become inoperative on July 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.

5907. No later than January 1, 1992, the director, in consultation with the California Conference of Local Mental Health Directors and representatives of institutions for mental disease, shall develop a suggested uniform contract format that may be used by counties for the purchase of services from institutions for mental disease.

5908. On or before October 1, 1992, and in each following year, the counties contracting directly with the facility shall inform the facility of any intent to modify the quantity of services to be purchased in the subsequent fiscal year. Contracts for these services shall be completed by April 1 of each year for the following year. In the absence of cause, changes shall not be made without this notification.

5909. The Director of Mental Health shall retain the authority and responsibility to monitor and approve special treatment programs in skilled nursing facilities in accordance with Sections 72443 to 72474, inclusive, of Title 22 of the California Code of Regulations.

5910. Nothing in this article shall preclude two or more counties from establishing a single agreement with a facility, or group of facilities, for the purchase of services for the counties as a single entity. When two or more counties enter into an agreement, a single county may act as the host county for the purpose of program management and administration.

5911. A county or group of counties, by agreement, may expand services into additional facilities utilizing any funds available to the county or counties for that purpose.

5912. As long as contracts require institutions for mental disease to continue to be licensed and certified as skilled nursing facilities by the State Department of Health Services, they shall be reimbursed for basic services at the rate established by the State Department of Health Services for skilled nursing facilities, plus the rate established for special treatment programs.

5913. By April 1, 1992, the department shall make available to the Joint Legislative Budget Committee information regarding federal or state audits and policies related to institutions for mental disease which may create new expenditure obligations on the part of local mental health programs.

5914. By April 1, 1992, the California Conference of Local Mental

Health Directors shall submit to the Joint Legislative Budget Committee a status report on the use of institutions for mental disease funds not directly tied to institution for mental disease contract services.

SEC. 199. Section 16720 is added to the Welfare and Institutions Code, to read:

16720. (a) This part shall remain operative only with respect to funds appropriated for this part for those fiscal years through and including the 1990–91 fiscal year, except Sections 16713, 16715, 16717, and 16718, which shall remain operative.

(b) This part shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

SEC. 200. Part 4.6 (commencing with Section 16800) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 4.6. LOCAL HEALTH CARE BUDGETING

16800. (a) For purposes of this part, "local jurisdiction" means a county, a city and county, or the City of Berkeley, Long Beach, or Pasadena.

(b) On or before September 15, 1991, and annually thereafter, the governing body of each local jurisdiction shall adopt and submit to the department a county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department. The department shall submit a copy of each plan, upon receipt, to the Legislative Analyst. Each copy of each plan shall include a description of the measures each governing body is taking to provide access to care for indigent adults and racial and ethnic minorities, and for securing cooperation among the various county agencies, local providers, and nonprofit community-based organizations. Each governing board is encouraged to establish a health planning committee that shall consist of private health care providers, nonprofit community-based health providers, representatives of organizations representing public and private sector health care workers, and representatives of racial and ethnic minorities and of medically indigent adults.

(c) It is the intent of the Legislature that:

(1) Information required pursuant to this part shall be minimized so that data shall be available to the state department to perform necessary administrative functions, including, but not limited to, statewide leadership, oversight and coordination, professional consultation and assistance, data collection and reporting, contract-back options, monitoring and evaluation, standards compliance, and to meet legislative reporting requirements while not placing an undue administrative burden on the resources of any county.

(2) The continuing need for plans and budgets required pursuant to this section, for the cost report specified in Section 16806, for the

report pursuant to Section 16808.1, and for all other data reporting requirements specified in Part 4.7 (commencing with Section 16900) shall be included in the task force review required by Section 202 of the act which added this part.

16801. The following definitions shall govern the construction of this part, unless the context requires otherwise:

(a) "County health services" means public health services, outpatient health services, and inpatient health services provided directly by a local jurisdiction or financed or purchased by a local jurisdiction through grants, contracts, or agreements but shall not include services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or Division 10.5 (commencing with Section 11750) of the Health and Safety Code or services which were provided in fiscal year 1977–78 but were not part of the reported net county costs for fiscal year 1977–78.

(b) "Net county costs for health services" means expenditures for county health services, less revenues received for county health services, plus federal revenue sharing funds budgeted or expended for health services.

(c) "City health services" means public health services, outpatient health services, and inpatient health services provided directly by the city or financed or purchased by the city through grants, contracts, or agreements, but shall not include services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(d) "Department" means the State Department of Health Services.

(e) "Net city costs for health services" means expenditures for city health services, less revenues received for city health services, plus federal revenue sharing funds budgeted or expended for health services.

(f) "Program account" means the County Medical Services Program Account in the County Health Services Fund.

(g) "Reserve account" means the County Medical Services Program Reserve Account in the County Health Services Fund.

16802. The net county costs of health services specified in each county health services plan and budget, including the costs of preparing the plan and budget pursuant to Section 16800 and the report of actual expenditures, revenues, and net costs pursuant to Section 16806, shall be financed in part in each local jurisdiction with funds received pursuant to Section 17603 from the Local Revenue Fund.

16803. (a) The County Health Services Fund is hereby created, and notwithstanding Section 13340 of the Government Code, is continuously appropriated to the department, without regard to fiscal years, for the purposes of this part.

(b) The expenditure of funds from the County Health Services Fund shall be made by the State Department of Health Services

without regard to fiscal year and shall be available for expenditure for two fiscal years subsequent to the fiscal year in which the original appropriation was made.

16804.1. (a) No fee or charge shall be required of any person before a county renders medically necessary services to persons entitled to services pursuant to Section 17000.

(b) This section is declaratory of existing law and shall not be interpreted to effect a county's authority to implement a reasonable sliding fee schedule based on ability to pay.

16806. (a) A local jurisdiction receiving funds pursuant to Section 17603 shall submit to the department in the form and according to the procedures established by the department a report of actual expenditures, revenues, and net county costs for the services provided in accordance with the county health services plan and budget for the fiscal year. The report shall be provided by April 15 following the close of the fiscal year during which the funds were expended, unless an extension of this date is formally granted by the department.

(b) The Director of Health Services shall withhold, in part or in whole, payment of moneys governed by Part 4.7 (commencing with Section 16900) to a local jurisdiction, until the plan and budget specified in subdivision (b) of Section 16800 and the report specified in subdivision (a) have been submitted to the department in the form and according to the guidelines and regulations established by the department.

16808.1. (a) The State Department of Health Services shall, no later than April 15 of each year, submit an annual report to the Legislature on county health services.

(b) The report shall contain information on both budgeted and expended state and county funds for county health services.

(c) The report shall provide data and analysis on county health services fiscal trends and information on the resources, types, and units of services provided by counties. The service information shall describe specific services provided and shall be tabulated by county.

(d) The report shall contain the information on closings of county hospitals or other county medical facilities, elimination or reduction of areas of service in county hospitals or other county medical facilities, and reduction in the level of services to indigents as of January 1, 1975, as reported by counties pursuant to Section 1442 of the Health and Safety Code, as that section existed on December 31, 1986.

(e) For the 1991–92 fiscal year, the report shall contain information on department and county actions necessitated by the changes in funding sources for health services. For the 1992–93 fiscal year and as necessary thereafter, as determined by the department, the report shall include an evaluation of the impact of the changes in funding sources for health services made on July 1, 1991.

16809. (a) The board of supervisors of a county which contracted with the department pursuant to Section 16709 during the 1990–91

fiscal year and of any county with a population under 300,000, as determined in accordance with the 1990 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) (1) Each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors. The notice shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(2) For the 1991–92 fiscal year only, and notwithstanding paragraph (2) of subdivision (a) of Section 1498.1 of Title 17 of the California Code of Regulations, the notice of intent to contract submitted by an eligible county pursuant to this section shall not be legally binding on that county or the state until 15 days after the enactment of the Budget Act of 1991.

(3) For the 1991–92 fiscal year only, contracts entered into pursuant to this section shall be governed by the following provisions:

(A) For a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year, the county may unilaterally terminate its contract and the effective date of termination shall be no earlier than the first day of the calendar month subsequent to 45 days after enactment of the Budget Act of 1991.

(B) For a county eligible pursuant to subdivision (a) which did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year, the county and the department may enter into a contract which shall have an effective date, at the discretion of the department, on the first day of any calendar month which occurs no later than 90 days after enactment of the Budget Act of 1991.

(C) For a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year, the effective date of contracting shall be July 1, 1991, unless the county terminates participation pursuant to subparagraph (A).

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish the County Medical Services Program Account in the County Health Services Fund. The following amounts may be deposited in the program account:

(1) Any interest earned upon money deposited in the program account.

(2) Moneys provided by participating counties or appropriated by the Legislature to the program account.

(3) Moneys loaned pursuant to subdivision (q).

(e) Moneys in the program account shall be used by the department for both of the following purposes:

(1) To pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (j).

(2) To pay for services for persons requiring emergency treatment, regardless of their county of residence, including those persons whose immigration status has not been established, who are unable to pay for those services, and for whom payment will not be made through any private coverage or by any other program funded in whole or in part by the state or the federal government.

(f) (1) Moneys in the program account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) Any interest or other increment resulting from the investment shall be deposited in the program account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, or for expenditure to augment the program's rates, benefits or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account, hereafter referred to as the reserve account, in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the budget for health services for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees required of Section 16809.3.

(h) Moneys in the program account and the reserve account, except for funds provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (q), shall not be transferred to any other fund or account in the Treasury except for purposes of

investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay by the 15th of each month the agreed upon contract amount. In the event a county does not make the agreed upon monthly payment, the department may terminate the county's participation in the program.

(2) A county may request, due to financial hardship, that payments under paragraph (1) be delayed. The request shall be approved by the Small County Advisory Committee.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments may be made as a part of the deposit authorized by the county pursuant to subdivision (b) of Section 17603 and subdivision (c) of Section 17604.

(j) (1) For the 1991–92 fiscal year and all preceding fiscal years, the state shall be at risk for any costs over and above the amounts deposited in the reserve account.

(2) (A) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties shall assume the risk for cost increases of the County Medical Services Program not funded through other sources. This risk shall be limited to the cumulative annual growth in the Local Revenue Fund created by Section 17600 according to the table specified in paragraph (3) to the County Medical Services Program. Cost increases shall be allocated proportionately to each county's actual growth in dedicated revenues. The state shall be at risk for any costs which exceed the cumulative annual growth in vehicle license fee and sales tax revenues deposited into the Local Revenue Fund for distribution to counties participating in the County Medical Services Program.

(B) As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or alter rates of payment during the fiscal year in order to ensure that sufficient funds are available for health services to county residents certified as eligible for the services. The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the program account and may adjust eligibility and benefit criteria and payments accordingly.

(3) (A) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,160
Amador	620,695
Butte	5,954,724
Calaveras	914,593
Colusa	800,543
Del Norte	781,900
El Dorado	3,537,742
Glenn	788,480
Humboldt	6,887,960
Imperial	6,398,861
Inyo	1,101,021
Kings	2,834,800
Lassen	687,590
Madera	2,884,148
Marin	7,731,272
Mariposa	435,364
Modoc	469,359
Mono	369,566
Napa	3,065,093
Nevada	1,862,085
Plumas	905,820
San Benito	1,086,765
Shasta	5,364,735
Sierra	135,983
Siskiyou	1,372,986
Solano	6,875,897
Sonoma	13,192,510
Sutter	2,998,198
Tehama	1,913,627
Trinity	611,922
Tuolumne	1,456,330
Yuba	2,397,243

(B) For the 1992–93 fiscal year and fiscal years thereafter, the amounts of the jurisdictional risk limitations shall be adjusted according to the provisions of paragraph (2).

(4) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the department and any county that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall establish that county's risk limitation according to the provisions of paragraph (2).

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect

unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) The department may pursue third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3.

(n) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 10481) of Chapter 7 of Part 3, if both of the following circumstances exist:

(1) The hospital has a contract with the state for these rates of reimbursement.

(2) The California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

(o) Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(p) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department shall collectively pursue identified options for the realization of program savings.

(q) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(r) This section shall remain operative only until July 1, 1994, and 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.

16809. (a) The board of supervisors of a county which contracted with the department pursuant to Section 16709 during the 1990–91 fiscal year and any county with a population under 300,000, as determined in accordance with the 1990 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) Each county intending to contract with the department

pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) (1) The department shall establish the County Medical Services Program Account in the County Health Services Fund. The following amounts may be deposited in the account:

(A) Any interest earned upon money deposited in the account.

(B) Moneys provided by participating counties or appropriated by the Legislature to the account.

(C) Moneys loaned pursuant to subdivision (p).

(2) For purposes of this section, "program account" means the County Medical Services Program Account in the county health services fund.

(e) Moneys in the account specified in subdivision (d) shall be used by the department for both of the following purposes:

(1) To pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (j).

(2) To defray the department's administrative costs incurred in implementing this section. Costs for administering this section shall be borne by the participating counties out of the account specified in subdivision (d).

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from the investment shall be deposited in the Program Account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code. All this interest shall be available to reimburse program-covered services, or for expenditures to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account in the County Health Services Fund. Six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to

exceed 10 percent of the budget for health services for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j) or for reducing the participation fees required by Section 16809.3.

(h) Moneys in the program account and the reserve account, except for moneys provided by the state in excess of the amount required to fund the state risk specified in subdivision (j), and any funds loaned pursuant to subdivision (p), shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) (1) Counties shall pay by the 15th of each month the agreed upon contract amount. In the event a county does not make the agreed upon monthly payment, the department may terminate the county's participation in the program.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the Small County Advisory Committee.

(3) Payments made pursuant to this subdivision shall be deposited in the program account.

(4) Payments shall be made as part of the deposits authorized by the county pursuant to subdivision (b) of Section 17603 and subdivision (c) of Section 17604.

(j) (1) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties shall assume the risk for cost increases of the County Medical Services Program not funded through other sources. This risk shall be limited to the cumulative annual growth in the Local Revenue Fund created by Section 17600 according to the table specified in paragraph (2) to the County Medical Services Program. Cost increases shall be allocated proportionately to each county's actual growth in dedicated revenues. The state shall be at risk for any costs which exceed the cumulative annual growth in dedicated sales tax and vehicle licensing fee revenues. As a condition of the state assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department, in consultation with the counties, may revise these eligibility criteria and benefits or alter rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for the services. The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the program account and may adjust eligibility and benefit criteria and payments accordingly.

(2) For the 1991–92 fiscal year, jurisdictional risk limitations shall be as follows:

Jurisdiction	Amount
Alpine	$ 13,160
Amador	620,695
Butte	5,954,724
Calaveras	914,593
Colusa	800,543
Del Norte	781,900
El Dorado	3,537,742
Glenn	788,480
Humboldt	6,887,960
Imperial	6,398,861
Inyo	1,101,021
Kings	2,834,800
Lassen	687,590
Madera	2,884,148
Marin	7,731,272
Mariposa	435,364
Modoc	469,359
Mono	369,566
Napa	3,065,093
Nevada	1,862,085
Plumas	905,820
San Benito	1,086,765
Shasta	5,364,735
Sierra	135,983
Siskiyou	1,372,986
Solano	6,875,897
Sonoma	13,192,510
Sutter	2,998,198
Tehama	1,913,627
Trinity	611,922
Tuolumne	1,456,330
Yuba	2,397,243

(3) For the 1992–93 fiscal year and subsequent fiscal years, the amount of the jurisdictional risk limitations shall be adjusted according to the provisions of paragraph (2).

(4) Beginning in the 1991–92 fiscal year and in subsequent fiscal years, the department and any county that did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall establish that county's risk limitation according to the provisions of paragraph (2).

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2

of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) The department may pursue third-party recoveries for services provided under this section pursuant to Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3.

(n) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if both of the following circumstances exist:

(1) The hospital has a contract with the state for these rates of reimbursement.

(2) The California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(o) Participating counties may conduct an independent program review to identify ways through which program savings may be generated. The counties and the department shall collectively pursue identified options for the realization of program savings.

(p) The Department of Finance may authorize a loan of up to thirty million dollars ($30,000,000) for deposit into the program account to ensure that there are sufficient funds available to reimburse providers and counties pursuant to this section.

(q) This section shall become operative July 1, 1994.

16809.3. (a) Beginning in the 1991–92 fiscal year, and in each fiscal year thereafter, a county shall pay the amount listed below to the department as a condition of participation in the County Medical Services Program administered pursuant to Section 16809:

Jurisdiction	Amount
Alpine	$ 1,893
Amador	89,296
Butte	856,676
Calaveras	131,578
Colusa	115,170
Del Norte	112,488
El Dorado	508,957
Glenn	113,435

Humboldt	990,936
Imperial	920,572
Inyo	158,398
Kings	407,828
Lassen	98,920
Madera	414,928
Marin	1,112,259
Mariposa	62,634
Modoc	67,524
Mono	53,168
Napa	440,959
Nevada	267,889
Plumas	130,316
San Benito	156,347
Shasta	771,797
Sierra	19,563
Siskiyou	197,525
Solano	989,200
Sonoma	1,897,939
Sutter	431,336
Tehama	275,304
Trinity	88,034
Tuolumne	209,515
Yuba	344,879

(b) Beginning in the 1991–92 fiscal year and in each fiscal year thereafter, counties which did not contract with the department pursuant to Section 16709 during the 1990–91 fiscal year shall pay the following amount to the department as a condition of participation in the County Medical Services Program, administered pursuant to Section 16809:

Jurisdiction	Amount
Lake	$ 457,160
Mendocino	739,996
Merced	1,048,421
Placer	700,982
San Luis Obispo	1,045,832
Santa Cruz	1,568,009
Yolo	771,985

(c) County amounts specified in subdivisions (a) and (b) shall be paid to the department in 12 equal monthly payments according to the procedures specified by the department. A county which does not pay the amounts specified in subdivision (a) or (b) may be terminated from participation in the program.

(d) The payments required by subdivision (c) may be made as a part of the deposits authorized by the county pursuant to subdivision (b) of Section 17603 and subdivision (b) of Section 17604.

(e) The department shall not implement, or shall cease

implementation of, this section if the revenue authority provided for in either Section 29550 of the Government Code, or Section 97.5 of the Revenue and Taxation Code, or both, is repealed, unless those county general purpose revenues are replaced in the 1991–92 fiscal year and subsequent fiscal years by county general purpose revenue authority equal to the revenue authority made available to the counties during the 1990–91 fiscal year.

16809.5. (a) Funds appropriated for the purposes of this section shall be allocated on a monthly basis.

(b) Money allocated for the purposes of this section shall be used to expand the scope of benefits, to fund special projects which alleviate problems of access to health and dental care under the County Medical Services Program and to compensate hospitals and other emergency health service providers for emergency treatment of out-of-county indigent patients and shall not be used to fund existing levels of service.

(c) Unexpended funds available from the fiscal year 1989–90 appropriation for the purposes of this chapter may be utilized to fund increased fiscal year 1990–91 program costs due to caseload increases and provider rate increases.

(d) Unexpended funds allocated from the fiscal year 1990–91 appropriation for purposes of improving dental access may be utilized in fiscal year 1991–92 for the continuation and completion of projects developed to improve dental access.

(e) This section shall remain operative only until July 1, 1994, and 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.

16811. Submission of a plan and a budget shall not relieve any county of its indigent health care obligation under Section 17000, nor shall it restrict the ability of the state or any interested person or persons to obtain any judicial relief to which they may be otherwise entitled.

16812. The State Department of Health Services, in consultation with the counties, shall adopt any regulations necessary to implement this part. The department may adopt these regulations on an emergency basis pursuant to Chapter 4.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. 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 4.5 (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 part 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 and shall remain in effect for only one year.

16817. Notwithstanding any other provision of law, a county may enter into contracts with selected providers to provide health care

services in expending funds provided pursuant to this part and Part 5 (commencing with Section 17000). The county may negotiate such reimbursement or payment arrangements it desires in such contracts. A county shall not be obligated to pay for health care services unless pursuant to a contract or the county has specifically authorized such services and agreed to payment. All such contracts shall be available for review by the department. A county may require county residents specified in this part and Part 5 to use county facilities or county selected providers. This section may not be construed to limit a county's existing obligations to furnish health care.

16818. (a) Each facility treating persons pursuant to Section 17000 shall provide, at the time treatment is sought, individual notice of the availability of reduced cost health care. In addition, conspicuous posted notices of the procedures for applying for reduced cost health care shall be displayed in all emergency rooms and patient waiting rooms of each facility treating persons pursuant to Section 17000.

(b) This section is declaratory of existing law and shall not be interpreted to constitute a new mandate.

SEC. 201.5. Chapter 6 (commencing with Section 17600) is added to Part 5 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 6. STATE AND LOCAL FUND ALLOCATIONS

Article 1. Funding Allocations

17600. (a) There is hereby created the Local Revenue Fund which shall have all of the following accounts:

(1) The Sales Tax Account.

(2) The Vehicle License Fee Account.

(3) The Sales Tax Growth Account.

(4) The Vehicle License Fee Growth Account.

(b) The Sales Tax Account shall have all of the following subaccounts:

(1) The Mental Health Subaccount.

(2) The Social Services Subaccount.

(3) The Health Subaccount.

(c) The Sales Tax Growth Account shall have all of the following subaccounts:

(1) The Caseload Subaccount.

(2) The Indigent Health Subaccount.

(3) The Community Health Subaccount.

(4) The Mental Health Subaccount.

(5) The State Hospital Mental Health Subaccount.

(6) The County Medical Services Subaccount.

(7) The General Growth Subaccount.

(d) Notwithstanding Section 13340 of the Government Code, the Local Revenue Fund is continuously appropriated, without regard to

fiscal years, for the purpose of this chapter.

17600.10. Each county and city receiving funds in accordance with this chapter shall establish and maintain a local health and welfare trust fund comprised of the following accounts:

(a) The mental health account.

(b) The social services account.

(c) The health account.

17600.15. (a) Of the sales tax proceeds from revenues collected in the 1991–92 fiscal year which are deposited to the credit of the Local Revenue Fund, 51.91 percent shall be credited to the Mental Health Subaccount, 36.17 percent shall be credited to the Social Service Subaccount, and 11.92 percent shall be credited to the Health Subaccount.

(b) For the 1992–93 fiscal year and fiscal years thereafter, the Controller shall make monthly allocations from the amounts deposited in the Sales Tax Account of the Local Revenue Fund in amounts equal to those distributed in the 1991–92 fiscal year. Any excess sales tax revenues received pursuant to Sections 6201.2 and 6051.2 of the Revenue and Taxation Code shall be deposited in the Sales Tax Growth Account of the Local Revenue Fund.

17600.20. (a) Any county or city may reallocate money among accounts in the local health and welfare fund, not to exceed 10 percent of the amount deposited in the account from which the funds are reallocated for that fiscal year.

(b) Notwithstanding subdivision (a), a county may reallocate up to 20 percent of the money from the health account to the social services account for net caseload increases in excess of revenue growth in the social services account. Prior to reallocation of funds in excess of 10 percent from the health account, the county shall deposit the revenue growth for any sales tax account for the fiscal year in the social services account.

Article 2. Mental Health Allocations

17601. The Controller shall allocate each month to the mental health account of each local health and welfare trust fund for the 1991–92 fiscal year the moneys deposited in the Mental Health Subaccount of the Sales Tax Account in the Local Revenue Fund in accordance with the following schedules:

(a) Schedule A—State Hospital and Community Mental Health Allocations.

Jurisdiction	Allocation Percentage
Alameda	4.958
Alpine	0.018
Amador	0.070
Butte	0.548
Calaveras	0.082
Colusa	0.073
Contra Costa	2.216
Del Norte	0.088
El Dorado	0.285
Fresno	2.045
Glenn	0.080
Humboldt	0.465
Imperial	0.342
Inyo	0.104
Kern	1.551
Kings	0.293
Lake	0.167
Lassen	0.087
Los Angeles	28.968
Madera	0.231
Marin	0.940
Mariposa	0.054
Mendocino	0.332
Merced	0.546
Modoc	0.048
Mono	0.042
Monterey	0.950
Napa	0.495
Nevada	0.191
Orange	4.868
Placer	0.391
Plumas	0.068
Riverside	2.394
Sacramento	3.069
San Benito	0.090
San Bernardino	3.193
San Diego	5.603
San Francisco	4.621
San Joaquin	1.655
San Luis Obispo	0.499
San Mateo	2.262
Santa Barbara	0.949
Santa Clara	4.112
Santa Cruz	0.558
Shasta	0.464

Sierra	0.026
Siskiyou	0.137
Solano	1.027
Sonoma	1.068
Stanislaus	1.034
Sutter/Yuba	0.420
Tehama	0.181
Trinity	0.055
Tulare	0.941
Tuolumne	0.121
Ventura	1.472
Yolo	0.470
Berkeley	0.110
Tri-City	0.165

The amounts allocated in accordance with Schedule A for the 1991–92 fiscal year shall be considered the base allocations for the 1992–93 fiscal year.

(b) (1) Schedule B—State Hospital Payment Schedule

From the amounts allocated in accordance with Schedule A, each county shall reimburse the Controller for reimbursement to the State Department of Mental Health one-twelfth, paid monthly in advance, of the amount identified for that county in the following schedule:

Jurisdiction	First Year State Hospital Withholding
Alameda	$ 15,636,372
Berkeley City	0
Alpine	95,379
Amador	148,915
Butte	650,238
Calaveras	100,316
Colusa	189,718
Contra Costa	8,893,339
Del Norte	94,859
El Dorado	236,757
Fresno	1,429,379
Glenn	51,977
Humboldt	727,684
Imperial	259,887
Inyo	363,842
Kern	4,024,613
Kings	266,904
Lake	292,373
Lassen	167,367
Los Angeles	102,458,700
Tri-City	0

Madera	131,243
Marin	3,248,590
Mariposa	117,989
Mendocino	471,955
Merced	404,125
Modoc	94,859
Mono	94,859
Monterey	2,079,097
Napa	2,338,985
Nevada	493,786
Orange	14,066,133
Placer	847,232
Plumas	130,463
Riverside	4,891,077
Sacramento	4,547,506
San Benito	259,887
San Bernardino	5,587,574
San Diego	6,734,976
San Francisco	23,615,688
San Joaquin	927,018
San Luis Obispo	719,887
San Mateo	6,497,179
Santa Barbara	2,168,758
Santa Clara	7,106,095
Santa Cruz	1,403,391
Shasta	1,169,492
Sierra	94,859
Siskiyou	129,944
Solano	5,332,885
Sonoma	2,669,041
Stanislaus	1,740,205
Sutter/Yuba	363,842
Tehama	363,842
Trinity	94,859
Tulare	675,707
Tuolumne	304,328
Ventura	3,378,533
Yolo	1,169,492

(2) Counties may authorize the Controller to reimburse the State Department of Mental Health directly for state hospital usage from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund.

(c) (1) For the 1991–92 fiscal year, the Controller shall distribute monthly from the Mental Health Account Subaccount of the Sales Tax Account of the Local Revenue Fund to the mental health account of each local health and welfare trust fund one-twelfth of the amount allocated to the county in accordance with the institutions for mental disease allocation schedule established by the State

Department of Mental Health.

(2) Each county shall forward to the Controller, monthly, one-twelfth of the amount allocated to the county in accordance with the institutions for mental disease allocation schedule established by the State Department of Mental Health. These amounts shall be deposited in the institutions for mental health diseases account of the Mental Health Facilities Fund.

(3) A county may authorize the Controller to forward, from the Mental Health Subaccount, monthly, to the Institutions for Mental Diseases Account of the Mental Health Facilities Fund, one-twelfth of the amount allocated to the county in accordance with the institutions for mental disease allocation schedule.

(4) The Controller shall transfer from the Mental Health Subaccount to the Institutions for Mental Diseases Account of the Mental Health Facilities Fund, on a quarterly basis, one-fourth of the funds not allocated to counties pursuant to the preliminary allocation established by the State Department of Mental Health pursuant to Section 5901, for the purpose of permitting the State Department of Mental Health to implement the risk pool specified in Section 5901 for support of the institutions for mental disease allocation schedule.

(5) Prior to making the allocations set forth in this subdivision, the Controller shall allocate three million seven hundred thousand dollars ($3,700,000) to the counties pursuant to a schedule developed by the State Director of Mental Health pursuant to subdivision (c) of Section 4095.

17602.05. (a) There is hereby created the Mental Health Facilities Fund, which shall have the following accounts:

(1) The State Hospital Account.

(2) The Institutions for Mental Disease Account.

(b) Funds deposited in the State Hospital Account are continuously appropriated, without regard to Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Mental Health for costs incurred pursuant to Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Funds deposited in the Institutions for Mental Disease Account are continuously appropriated, without regard to Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Mental Health for costs incurred pursuant to Part 5 (commencing with Section 5900) of Division 4.

Article 3. Social Services Allocations

17602. (a) Pursuant to schedules developed by the Department of Finance in conjunction with the appropriate state departments based on the estimated 1991–92 expenditures as contained in the Budget Act for programs impacted by realignment and contained in the Social Services Subaccount, the Controller shall make monthly

allocations to counties of the funds deposited into the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund. The programs to be funded in accordance with the schedule are those set forth in Sections 1794, 1806, 1904, 10101, 10101.1, 11322, 11322.2, 12306, 15200, 15204.2, and 18906.5 of this code, and Section 265 of the Health and Safety Code.

(b) Counties that receive allocations pursuant to 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 shall continue to provide those services at the level provided in the 1990–91 fiscal year.

(c) For the 1991–92 fiscal year and every fiscal year thereafter, the Controller shall allocate an amount from the Social Services Subaccount to counties that equals the amount those counties receive pursuant to Sections 16265 to 16265.7, inclusive, of the Government Code in the 1990–91 fiscal year.

Article 4. Health Allocations

17603. The Controller shall make monthly allocations from the amounts deposited in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the local health and welfare trust fund health accounts in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.8469
Alpine	0.0181
Amador	0.1553
Butte	0.8135
Calaveras	0.1436
Colusa	0.1196
Contra Costa	2.3809
Del Norte	0.1340
El Dorado	0.5231
Fresno	2.2822
Glenn	0.1343
Humboldt	0.9010
Imperial	0.8242
Inyo	0.1870
Kern	1.5949
Kings	0.4086
Lake	0.1880
Lassen	0.1626
Los Angeles	36.1417
Madera	0.3658
Marin	1.0791
Mariposa	0.0751

Mendocino	0.2779
Merced	0.3919
Modoc	0.0897
Mono	0.1187
Monterey	0.8690
Napa	0.4469
Nevada	0.2735
Orange	5.2225
Placer	0.3167
Plumas	0.1145
Riverside	2.7454
Sacramento	3.1203
San Benito	0.1728
San Bernardino	2.5272
San Diego	4.9024
San Francisco	7.5847
San Joaquin	1.0996
San Luis Obispo	0.4981
San Mateo	1.6020
Santa Barbara	0.9320
Santa Clara	3.6361
Santa Cruz	0.6454
Shasta	0.6736
Sierra	0.0361
Siskiyou	0.2247
Solano	0.9382
Sonoma	1.6696
Stanislaus	1.0649
Sutter	0.4462
Tehama	0.2987
Trinity	0.1307
Tulare	0.7166
Tuolumne	0.2359
Ventura	1.3194
Yolo	0.3713
Yuba	0.3078
Berkeley	0.0692
Long Beach	0.2918
Pasadena	0.1385

17603.05. Upon request of a county, the Controller may deposit all or a portion of the county's allocation under this article into the County Medical Services Program Account of the County Health Services Fund.

Article 5. Vehicle License Fee Allocations

17604. (a) For the 1991–92 fiscal year, the Controller shall make monthly allocations from the amounts deposited in the Vehicle

Mendocino	0.2779
Merced	0.3919
Modoc	0.0897
Mono	0.1187
Monterey	0.8690
Napa	0.4469
Nevada	0.2735
Orange	5.2225
Placer	0.3167
Plumas	0.1145
Riverside	2.7454
Sacramento	3.1203
San Benito	0.1728
San Bernardino	2.5272
San Diego	4.9024
San Francisco	7.5847
San Joaquin	1.0996
San Luis Obispo	0.4981
San Mateo	1.6020
Santa Barbara	0.9320
Santa Clara	3.6361
Santa Cruz	0.6454
Shasta	0.6736
Sierra	0.0361
Siskiyou	0.2247
Solano	0.9382
Sonoma	1.6696
Stanislaus	1.0649
Sutter	0.4462
Tehama	0.2987
Trinity	0.1307
Tulare	0.7166
Tuolumne	0.2359
Ventura	1.3194
Yolo	0.3713
Yuba	0.3078
Berkeley	0.0692
Long Beach	0.2918
Pasadena	0.1385

17603.05. Upon request of a county, the Controller may deposit all or a portion of the county's allocation under this article into the County Medical Services Program Account of the County Health Services Fund.

Article 5. Vehicle License Fee Allocations

17604. (a) For the 1991–92 fiscal year, the Controller shall make monthly allocations from the amounts deposited in the Vehicle

License Fee Account of the Local Revenue Fund to each county and city in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.8469
Alpine	0.0181
Amador	0.1553
Butte	0.8135
Calaveras	0.1436
Colusa	0.1196
Contra Costa	2.3809
Del Norte	0.1340
El Dorado	0.5231
Fresno	2.2822
Glenn	0.1343
Humboldt	0.9010
Imperial	0.8242
Inyo	0.1870
Kern	1.5949
Kings	0.4086
Lake	0.1880
Lassen	0.1626
Los Angeles	36.1417
Madera	0.3658
Marin	1.0791
Mariposa	0.0751
Mendocino	0.2779
Merced	0.3919
Modoc	0.0897
Mono	0.1187
Monterey	0.8690
Napa	0.4469
Nevada	0.2735
Orange	5.2225
Placer	0.3167
Plumas	0.1145
Riverside	2.7454
Sacramento	3.1203
San Benito	0.1728
San Bernardino	2.5272
San Diego	4.9024
San Francisco	7.5847
San Joaquin	1.0996
San Luis Obispo	0.4981
San Mateo	1.6020
Santa Barbara	0.9320
Santa Clara	3.6361
Santa Cruz	0.6454

Shasta	0.6736
Sierra	0.0361
Siskiyou	0.2247
Solano	0.9382
Sonoma	1.6696
Stanislaus	1.0649
Sutter	0.4462
Tehama	0.2987
Trinity	0.1307
Tulare	0.7166
Tuolumne	0.2359
Ventura	1.3194
Yolo	0.3713
Yuba	0.3078
Berkeley	0.0692
Long Beach	0.2918
Pasadena	0.1385

(b) For the 1992–93 fiscal year and fiscal years thereafter, the Controller shall make monthly allocations from the amounts deposited in the Vehicle License Fee Account of the Local Revenue Fund in amounts equal to those distributed in the 1991–92 fiscal year. Any excess vehicle license fee revenues received pursuant to Section 11001.5 of the Revenue and Taxation Code shall be deposited in the Vehicle License Fee Growth Account of the Local Revenue Fund.

Article 6. Growth Account Allocations—Deposits

17605. (a) For the 1992–93 fiscal year, the Controller shall deposit thirty-two million two hundred ninety-one thousand dollars ($32,291,000) of those revenues deposited in the Local Revenue Fund into the Caseload Subaccount in the Sales Tax Growth Account, in 12 equal installments, which shall be allocated to the counties to fund the caseload growth for the AFDC program, the AFDC-FC program, adoptions assistance, the California Children's Services, local health services under Section 1157.1, and the In-Home Supportive Services Program attributable to changes in county sharing ratios enacted pursuant to Senate Bill 698 of the 1991–92 Regular Session of the Legislature or any other act enacted during that session that provided for the realignment of state and county sharing ratios.

(b) For fiscal years subsequent to the 1992–93 fiscal year, the Controller shall deposit 30 percent of the revenues deposited in the Sales Tax Growth Account into the Caseload Subaccount.

17605.05. (a) For the 1992–93 fiscal year and succeeding fiscal years, the Controller shall deposit funds from the Sales Tax Growth Account into the specified accounts according to the following schedule:

Account	
The Indigent Health Subaccount	$4,025,000
The Community Health Subaccount	9,856,000
The Mental Health Subaccount	3,185,000
The State Hospital Mental Health Subaccount	5,654,000

(b) If equity is achieved under the test established in subdivision (b) of Section 17606.05, the Controller shall transfer funds to the other subaccounts of the Sales Tax Growth Account in equal proportion to the remaining subaccounts.

17605.15. (a) For the 1992–93 fiscal year, the Controller shall deposit not more than fifty-two million one hundred eighty-eight thousand dollars ($52,188,000) of those revenues deposited in the General Growth Subaccount of the Sales Tax Growth Account, for allocation to each county's health and welfare trust fund. In succeeding fiscal years, the amount to be deposited by the Controller shall be equal to the amount deposited to this subaccount in the prior fiscal year adjusted for estimated growth for the current fiscal year as determined by the Department of Finance.

(b) (1) The Controller shall transfer an amount equal to the growth of revenues in excess of the funds for the 1991–92 fiscal year provided pursuant to Section 16809 to counties to fund growth in the County Medical Services Program.

(2) The rate of growth for the County Medical Services Program shall be proportionate to the rate of growth in revenues from the 1991–92 base of fifty-two million one hundred eighty-eight thousand dollars ($52,188,000).

Article 7. Allocation of Funds from the Sales Tax Growth Account

17606. For the 1992–93 fiscal year and each succeeding fiscal year, the Controller shall allocate to the counties, on a monthly basis, those funds deposited in the Caseload Subaccount in the Sales Tax Growth Account, according to a schedule adopted annually by the appropriate departments which identify caseload growth in the programs identified in subdivision (a) of Section 17605. Funds which exceed the requirements shall revert pursuant to subdivision (a) of Section 17606.10.

17606.05. (a) For the 1992–93 fiscal year, the Controller shall allocate, to those counties which are below statewide average, those funds deposited in the Indigent Health Subaccount, the Community Health Subaccount, the Mental Health Subaccount, and the State Hospital Mental Health Subaccount in accordance with the following tables and schedules:

(1) The Controller shall make monthly allocations from the amounts deposited in the Indigent Health Subaccount to each

county in accordance with the following schedule:

County	Allocation Percentage
Alameda	.09377
Contra Costa	.04939
Fresno	.06964
Kern	.04362
Merced	.01889
Monterey	.02143
Placer	.00959
Riverside	.07059
Sacramento	.08907
San Bernardino	.10804
San Diego	.15927
San Joaquin	.04855
San Luis Obispo	.01200
San Mateo	.03159
Santa Barbara	.03159
Santa Clara	.03159
Stanislaus	.03249
Tulare	.03262
Ventura	.03592
Yolo	.01038

(2) The Controller shall make monthly allocations from the amounts deposited in the Community Health Subaccount to each county in accordance with the following schedule:

County	Allocation Percentage
Butte	.0111
Calaveras	.0013
Del Norte	.0018
El Dorado	.0054
Fresno	.0720
Glenn	.0012
Humboldt	.0071
Imperial	.0072
Kern	.0481
Kings	.0062
Lake	.0035
Lassen	.0015
Madera	.0043
Marin	.0084
Mariposa	.0007
Mendocino	.0054
Merced	.0153
Modoc	.0005
Napa	.0050

Nevada	.0040
Placer	.0063
Plumas	.0012
Riverside	.0766
Sacramento	.0801
San Benito	.0015
San Bernardino	.1176
San Diego	.1707
San Joaquin	.0391
San Luis Obispo	.0109
Santa Clara	.1388
Shasta	.0109
Sierra	.0002
Siskiyou	.0025
Solano	.0125
Sonoma	.0183
Stanislaus	.0290
Sutter	.0067
Tehama	.0029
Tulare	.0203
Tuolumne	.0022
Ventura	.0334
Yolo	.0084

(3) The Controller shall make monthly allocations from the amounts deposited in the State Hospital Mental Health Subaccount to each county in accordance with the following schedule:

County	Allocation Percentage
Amador	.00055
Butte	.01957
Calaveras	.00256
Del Norte	.00291
El Dorado	.01011
Fresno	.10815
Glenn	.00277
Humboldt	.00747
Imperial	.01682
Kern	.01726
Kings	.01153
Lake	.00470
Lassen	.00150
Madera	.01192
Mariposa	.00006
Mendocino	.00478
Merced	.02924
Modoc	.00007
Monterey	.00684

Nevada	.00021
Placer	.00450
Plumas	.00068
Riverside	.05538
Sacramento	.09423
San Benito	.00010
San Bernardino	.11445
San Diego	.19331
San Joaquin	.07682
San Luis Obispo	.01119
Santa Barbara	.00341
Santa Clara	.05264
Santa Cruz	.00271
Shasta	.00708
Siskiyou	.00529
Stanislaus	.03309
Sutter	.01702
Tehama	.00194
Trinity	.00054
Tulare	.05074
Tuolumne	.00104
Ventura	.01377
Yolo	.00105

(4) The Controller shall make monthly allocations from the amounts deposited in the Mental Health Subaccount to each county in accordance with the following schedule:

County	Allocation Percentage
Butte	.00379
Contra Costa	.06066
Fresno	.07113
Imperial	.00711
Kern	.05387
Lake	.00490
Lassen	.00045
Los Angeles	.28142
Madera	.00335
Merced	.01955
Napa	.00046
Orange	.02794
Riverside	.06448
Sacramento	.03710
San Benito	.00231
San Bernardino	.19414
Santa Cruz	.02171
Shasta	.01909
Solano	.05117

Stanislaus	.03717
Tulare	.03604
Tuolumne	.00217

(b) (1) For the 1993–94 fiscal year and succeeding years, the Controller shall allocate, on a monthly basis, to counties those funds deposited in the Indigent Health Subaccount, the Community Health Subaccount, the Mental Health Subaccount, and the State Hospital Mental Health Subaccount in the Growth Account in accordance with a schedule prepared by the appropriate state department.

(2) Eligible counties shall receive from each subaccount an allocation which equals the amount by which their share of poverty population, as determined under subdivision (c) of Section 5701, exceeds the amount received in the prior fiscal year as annually adjusted by the appropriate state department to reflect changes in equity status from the base percentages of these programs as follows:

(A) State funding under Part 4.5 (commencing with Section 16700).

(B) Funding provided for purposes of implementation of Division 5 (commencing with Section 5000) for the organization and financing of community mental health services.

(C) State hospital funding.

(3) The state departments administering the programs for which the funds are allocated shall annually consult with county representatives prior to submitting any schedule of allocations to the Controller.

17606.10. (a) For the 1992–93 fiscal year, the Controller shall allocate funds, on a monthly basis, not to exceed fifty-two million one hundred eighty-eight thousand dollars ($52,188,000) from the General Growth Subaccount in the Sales Tax Growth Account to the local health and welfare trust fund of each county in accordance with a schedule setting forth the percentage of total state resources received prior to the effective date of this section from state funding under Part 4.5 (commencing with Section 16700), funding provided for purposes of implementation of Division 5 (commencing with Section 5000), for the organization and financing of community mental health services, including the Cigarette and Tobacco Products Surtax proceeds which are allocated to county mental health programs pursuant to Chapter 1331 of the Statutes of 1989, Chapter 51 of the Statutes of 1990, and Chapter 1323 of the Statutes of 1990, and state hospital funding, as annually adjusted by the appropriate state department to reflect changes in equity status from the base percentages. However, for the 1992–93 fiscal year, the allocation for community mental health services shall be based on the following schedule:

Jurisdiction	Percentage of Statewide Resource Base
Alameda	4.3693
Alpine	0.0128
Amador	0.0941
Butte	0.7797
Calaveras	0.1157
Colusa	0.0847
Contra Costa	2.3115
Del Norte	0.1237
El Dorado	0.3966
Fresno	3.1419
Glenn	0.1304
Humboldt	0.6175
Imperial	0.5425
Inyo	0.1217
Kern	1.8574
Kings	0.4229
Lake	0.2362
Lassen	0.1183
Los Angeles	27.9666
Madera	0.3552
Marin	0.9180
Mariposa	0.0792
Mendocino	0.4099
Merced	0.8831
Modoc	0.0561
Mono	0.0511
Monterey	1.1663
Napa	0.3856
Nevada	0.2129
Orange	5.3423
Placer	0.5034
Plumas	0.1134
Riverside	3.6179
Sacramento	4.1872
San Benito	0.1010
San Bernardino	4.5494
San Diego	7.8773
San Francisco	3.5335
San Joaquin	2.4690
San Luis Obispo	0.6652
San Mateo	2.5169
Santa Barbara	1.0745
Santa Clara	5.0488
Santa Cruz	0.7960

Shasta	0.5493
Sierra	0.0345
Siskiyou	0.2051
Solano	0.6694
Sonoma	1.1486
Stanislaus	1.4701
Sutter/Yuba	0.6294
Tehama	0.2384
Trinity	0.0826
Tulare	1.4704
Tuolumne	0.1666
Ventura	1.9311
Yolo	0.5443
Berkeley	0.2688
Tri-City	0.2347

(b) If, in the 1992–93 fiscal year, the General Growth Subaccount in the Growth Account is not credited with fifty-two million one hundred eighty-eight thousand dollars ($52,188,000), the allocations made pursuant to subdivision (a) shall be reduced on a pro rata basis.

17606.15. (a) In addition to any other allocations made pursuant to Section 17606.10, the Controller shall make an allocation from the Growth Account to Orange County, for an equity adjustment, in the 1992–93 fiscal year, a sum of one million nine hundred fifty-seven thousand dollars ($1,957,000) to be incorporated into the base allocation of the local health and welfare trust fund for that county.

(b) In addition to any other allocations made pursuant to this section, the Controller shall annually make an allocation from the Sales Tax Growth Account, to the following counties to be incorporated into their annual base allocations, for an equity adjustment, beginning with the 1992–93 fiscal year and ending with, and including, the 1996–97 fiscal year.

(1) Orange County shall be allocated one million three hundred four thousand seven hundred dollars ($1,304,700).

(2) San Diego County shall be allocated two million six hundred nine thousand four hundred dollars ($2,609,400).

(3) Santa Clara County shall be allocated seven hundred seventeen thousand five hundred eighty-five dollars ($717,585).

(c) If there are not sufficient funds in any fiscal year to make the distribution required by subdivisions (a) and (b), the Controller shall, in the following fiscal year, allocate to those counties that portion of the funds which are not allocated as required.

(d) To the extent that the allocations made pursuant to subdivisions (b) and (c) of this section and Section 17606.16 provide less than four million dollars ($4,000,000) for San Diego County, two million dollars ($2,000,000) for Orange County, one million one hundred thousand dollars ($1,100,000) for Santa Clara County in any fiscal year, then it is the intent of the Legislature that the shortfall be allocated from the Sales Tax Growth Account in the following

fiscal year.

17606.20. The Controller shall allocate money to each county general fund from revenues deposited in the Vehicle License Fee Account in the Local Revenue Fund in amounts that are based on the proportion each county's total allocation from the Sales Tax Growth Account bears to the sum of the deposits to the Sales Tax and Vehicle License Fee Accounts in the Local Revenue Fund.

Article 9. County Matching Fund Requirements

17608. Beginning in the 1992–93 fiscal year, the total amount a county is required to expend pursuant to Section 17605.10 shall be augmented by the amount of funds allocated to that county in accordance with paragraph (1) of subdivision (c) of Section 5902.

17608.05. As a condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's local health and welfare trust fund mental health account, the county or city shall deposit each month local matching fund in accordance with a schedule developed by the State Department of Mental Health based on county or city standard matching obligations for the 1990–91 fiscal year for mental health programs.

17608.10. As a condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's local health and welfare trust fund health account, a county or city shall deposit each month one-twelfth of the amounts set forth in the following schedule:

Jurisdiction	Amount
Alameda	$ 57,835,513
Alpine	160,458
Amador	1,618,851
Butte	6,982,965
Calaveras	1,104,702
Colusa	1,157,681
Contra Costa	28,432,075
Del Norte	1,075,436
El Dorado	4,728,750
Fresno	27,962,388
Glenn	1,091,805
Humboldt	7,887,687
Imperial	7,113,056
Inyo	1,999,864
Kern	19,893,931
Kings	3,610,081
Lake	1,564,768
Lassen	1,590,102
Los Angeles	437,384,219
Madera	2,896,446
Marin	9,498,817
Mariposa	577,987

Mendocino	2,486,319
Merced	3,873,797
Modoc	833,422
Mono	1,323,533
Monterey	10,053,561
Napa	3,984,943
Nevada	2,200,798
Orange	55,906,898
Placer	2,805,095
Plumas	947,359
Riverside	28,487,092
Sacramento	31,135,148
San Benito	1,329,415
San Bernardino	23,759,807
San Diego	42,120,756
San Francisco	97,716,902
San Joaquin	10,929,803
San Luis Obispo	5,191,982
San Mateo	19,111,337
Santa Barbara	10,964,453
Santa Clara	41,178,266
Santa Cruz	7,019,075
Shasta	5,366,289
Sierra	284,941
Siskiyou	2,016,309
Solano	7,333,852
Sonoma	13,283,695
Stanislaus	11,703,936
Sutter	4,288,063
Tehama	2,745,404
Trinity	1,298,492
Tulare	7,060,421
Tuolumne	2,120,414
Ventura	14,336,043
Yolo	3,937,904
Yuba	2,555,692
Berkeley	2,485,076
Long Beach	2,244,859
Pasadena	1,065,562

17608.15. As a condition of the deposit of Sales Tax Growth Account funds into the local health and welfare trust fund accounts, a county or city shall deposit, each month, local matching funds that are sufficient to permit the expenditure from the local health and welfare trust fund accounts amounts that are equivalent to the growth of revenue in the sales tax and vehicle license fees allocated to the trust fund accounts and the county general funds.

Article 10. Expenditure Limitations and Reports

17609. Funds deposited into a county's health and welfare trust fund accounts may be expended only for the purposes of providing mental health, public health, indigent health care, social services, and juvenile justice.

17609.05. Each county shall file with the Controller quarterly and annual reports of trust fund deposits and expenditures.

SEC. 202. (a) (1) The Health and Welfare Agency shall establish a task force to review and evaluate existing county reporting and data requirements for mental health, public health, indigent health, and social services. In addition, the task force shall propose a plan to evaluate realignment which shall include the specific data to be collected, the entities that would collect each type of data, and the dates on which data will be provided to the Health and Welfare Agency.

(2) (A) The plan and budget requirements specified in subdivision (b) of Section 16800 of the Welfare and Institutions Code shall be superseded by the recommendations of the task force when implementing legislation is enacted or when the Health and Welfare Agency determines that the recommendations may be implemented under existing statutes.

(B) Recommendations for modifying the county plan and budget requirements specified in subdivision (b) of Section 16800 shall not result in county administrative costs that exceed statewide costs incurred under statutes in effect on the effective date of this section.

(b) The task force shall consist of representatives from the Health and Welfare Agency, the Department of Finance, the Legislative Analyst's office, appropriate legislative committee staff, county representatives, representatives of public and private sector health workers, private health care providers, medically indigent adults, nonprofit community-based organizations providing mental health, public health, social services, the affected state departments, and other interested groups.

(c) On or before April 1, 1992, the Health and Welfare Agency shall report to the Legislature on recommendations for data and information requirements and shall submit a draft of legislative language necessary to effect the recommendations. This report shall specifically include recommendations on the data to be collected to meet legislative intent as specified in subdivision (f).

(d) The Legislative Analyst shall issue a report summarizing the health service plans submitted by each governing body to the Health and Welfare Agency pursuant to subdivision (b) of Section 16800 of the Welfare and Institutions Code. The Legislative Analyst shall summarize these service plans and provide an independent verification of their accuracy based on site visits to as many counties as possible. A report shall be transmitted to the Joint Legislative Task Force on Realignment by April 1, 1992, April 1, 1993, and April 1, 1994.

(e) The Auditor General and the Legislative Analyst shall prepare and transmit a comprehensive evaluation plan to the Joint Legislative Task Force on Realignment created by this act no later than June 30, 1992. This plan shall include elements contained in the evaluation plan pursuant to subdivision (b) of Section 16800 of the Welfare and Institutions Code, the extent to which the Health and Welfare Agency data and recommendations would allow for an evaluation of the items specified in subdivision (f), costs estimated for conducting the comprehensive evaluation, and a division of labor between the joint committees, and what components would be performed by either the Joint Legislative Task Force on Realignment directly, an independent contractor, the Legislative Analyst, or the Auditor General.

(f) This plan shall cover the resources and data needed to determine the following:

(1) If there has been compliance with each of the realignment provisions pursuant to this act.

(2) If revenues have been sufficient to adequately serve anticipated caseload increases.

(3) The extent to which additional problems of access to care by the indigent and racial and ethnic minorities have developed.

(4) The extent to which local public health, indigent health, and social services planning, funding, and service delivery has been inclusive of public health and social services providers in the local jurisdictions, including nonprofit community-based organizations.

(5) The extent to which interagency collaboration has occurred for the purposes of streamlining intake and assessment processes and coordinating funding and service delivery.

(6) The extent to which the costs and demand for health care in contract counties and under the County Medical Services Program (CMSP) has increased, and the factors impeding the ability to meet increased needs.

(7) The extent to which health care standards have been maintained and enforcement procedures established by county public health departments.

(8) The extent to which surveillance systems identify communicable and chronic diseases and other causes of death and disability.

(g) Based on its review of the evaluation plan, the Joint Legislative Task Force on Realignment shall develop legislation specifying the resources and activities necessary to provide for an evaluation by April 1, 1994, and annually thereafter until April 1, 1996.

(h) It is the intent of the Legislature that the evaluation shall be based on site visits and analysis of data in the following counties over the three-year period: three counties each with a population of over 2,000,000 persons; three counties each with a population between 1,000,000 and 2,000,000 persons; and three counties each with a population between 500,000 and 1,000,000 persons. The State

Department of Health Services shall assist the Joint Legislative Task Force on Realignment, independent contractors, the Legislative Analyst, and the Auditor General in conducting onsite visits. In addition, the department shall conduct a review in five counties designated by the department as being contract counties and nine counties designated CMSP counties and shall submit a report of these reviews to the Legislative Analyst over the three-year period.

(i) In each evaluation, the Joint Legislative Task Force on Realignment, independent contractors, the Legislative Analyst, and the Auditor General shall make a specific determination as to whether implementation has complied with this act and Section 16990 of the Welfare and Institutions Code, and shall include recommendations for such legislation as may be appropriate to deter or remedy any problems identified.

(j) As part of their responsibilities in conducting these evaluations, the Joint Legislative Task Force on Realignment, independent contractors, the Legislative Analyst, and the Auditor General shall consult with providers of public health, indigent health, mental health, and social services at the county level, and impacted communities including, but not limited to, the indigent, racial and ethnic minorities, and rural farmworkers.

SEC. 203. Whenever the Legislature proposes statutory or budgetary action which would shift significant mental health caseload to counties, the office of the Legislative Analyst, as part of its usual reporting process, shall separately estimate and identify the local impact of that action.

SEC. 204. Notwithstanding any other provision of law, during the 1991–92 fiscal year, amounts designated through realignment to city-operated mental health programs and the counties in which they operate may be adjusted by the State Department of Mental Health to reflect the appropriate distribution of resources between those cities and counties. Upon receipt from the department of notice of an adjustment, the Controller shall make any necessary adjustments.

SEC. 205. The State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors and other relevant organizations, shall review the purpose and function of the conference, local mental health advisory boards, the Organization of Local Mental Health Advisory Boards, the California Council on Mental Health, and the P.L. 99–660 Planning Council, and recommend to the Legislature, no later than September 30, 1992, an appropriate structure for public input, planning, and evaluation under realigned mental health programs.

SEC. 206. No later than January 10, 1992, the State Department of Mental Health shall report to the Governor and the chairpersons of the fiscal and policy committees of each house of the Legislature on the effect this act has had on the responsibilities and duties of the department.

SEC. 206.5. Counties and cities shall use those sources of funding

described in paragraphs (1), (2), and (3) of subdivision (a) of Section 5700 of the Welfare and Institutions Code, prior to using any other funds for the implementation of any new duty or for the provision of any higher level of service required by this act.

SEC. 207. During the 1991–92 fiscal year,the State Department of Mental Health 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 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 and shall remain in effect for only one year.

SEC. 208. 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. 209. (a) In the event of a determination by the Commission on State Mandates, which is not appealed by the Director of Finance in accordance with subdivision (c), or a final judicial determination by a California court of appellate jurisdiction that any provision of this act is a state-mandated local program requiring state reimbursement to a local agency or school district within the meaning of Section 6 of Article XIII B of the California Constitution, the provisions of this act shall become inoperative 60 days following the date on which the Commission on State Mandates adopts an estimated statewide cost of reimbursement pursuant to such a commission decision finding a state mandate, or following the date on which the first such judicial determination becomes final.

(b) This section shall be operative only in the event that the estimated statewide cost of reimbursement exceeds one million dollars ($1,000,000) per year. The estimated cost of reimbursement for purposes of this one million dollar ($1,000,000) limitation shall be determined by reference to the or school district within the meaning of Section 6 of Article XIII B of the California Constitution, the provisions of this act shall become inoperative 60 days following the date on which the Commission on State Mandates adopts an estimated statewide cost of reimbursement pursuant to such a commission decision finding a state mandate, or following the date on which the first such judicial determination becomes final.

(c) This act shall not become inoperative pursuant to subdivision

(a) if the Director of Finance files a written Notice of Intent to Appeal with the Commission on State Mandates within 60 days of the adoption of an estimated statewide cost of reimbursement pursuant to a decision by the commission finding that any of the provisions of this act is a state-mandated local program requiring reimbursement within the meaning of Section 6 of Article XIII B of the California Constitution. The Notice of Intent to Appeal specified by this subdivision shall consist of a written notice setting forth the intention of the Director of Finance to seek judicial review of the decision of the Commission on State Mandates that is received by the commission within the time specified.

SEC. 210. Any amendments to the Vehicle License Fee Law, in the 1991–92 Regular Session, which result in an increase in the vehicle license fee paid, shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by a California court of appellate jurisdiction of either of the following:

(a) The allocation of funds from the Vehicle License Fee Account or the Vehicle License Fee Growth Account from the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(b) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapter 328 of the Statutes of 1982, and Chapter 1594, of the Statutes of 1982.

SEC. 211. In the event of a final judicial determination by a California court of appellate jurisdiction that the revenues collected pursuant to Sections 6051.2 and 6201.2 of the Revenue and Taxation Code are General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B of the California Constitution or allocated local proceeds of taxes as used in paragraph (2) of subdivision (b) of Article XVI of the California Constitution, then Sections 6051.2 and 6201.2 of the Revenue and Taxation Code shall cease to be operative on the first day of the first month of the calendar quarter following notification to the Board of Equalization by the Department of Finance of the determination.

SEC. 212. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 realignment provisions necessary to help resolve the state budgetary crisis may be implemented at the earliest possible time, and in order to permit this act to be operative for the entire 1991–92 fiscal year and so facilitate the orderly administration of the system of providing certain health services, it is necessary that this act take effect immediately.

CHAPTER 90

An act to amend Sections 68543.5, 75025, 75028.1, 75028.3, 75033.5, 75075, 75076, and 77200 of, to add Sections 12419.10, 68090.8, 68106, 68112, 68113, 68520, 68543.7, and 68620 to, to add Title 8.5 (commencing with Section 77850) to, to repeal Sections 68543.6 and 77201 of, and to repeal Chapter 12 (commencing with Section 76010) of Title 8 of, the Government Code, to amend Sections 1306, 1463, 1463.28, and 1464 of, to add Sections 1205.1, and 1464.8 to, and to repeal Sections 1463.02, 1463.03, 1463.04, 1463.05, 1463.06, 1463.2, 1463.3, 1463.4, 1463.5a, 1463.6, 1463.7, 1463.8, 1463.9, 1463.10, 1463.11, 1463.12, 1463.13, 1463.14, 1463.15, 1463.16, 1463.17, 1463.18, 1463.19, 1463.20, 1463.21, 1463.22, 1463.23, 1463.24, 1463.25, 1463.26, 1463.27, and 1463.29 of, the Penal Code, to amend Section 97.38 of the Revenue and Taxation Code, and to amend Sections 4150, 4150.2, 12800, 22651, 22651.7, 40610, and 42007 of, and to add Sections 4760.1, 12808.1, 40512.6, 40611, and 42008 to, the Vehicle Code, relating to trial court funding, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. This act shall be known and may be cited as the Trial Court Realignment and Efficiency Act of 1991.

SEC. 2. (a) The Legislature finds that:

(1) The State of California faces an unprecedented fiscal crisis, and its solution requires the participation of every branch of government.

(2) State and local governments and the judicial branch of government view this fiscal crisis as an opportunity to reexamine and reconstruct the roles and responsibilities of each branch.

(3) The operation and financing of municipal, superior, and justice courts, although a relatively small part of overall government spending, must be examined in light of this need for structural and financial realignment.

(4) The funding of trial court operations is most logically a candidate for state funding for each of the following reasons:

(A) State funding of trial courts provides uniform standards and procedures, economies of scale, and structural efficiency and simplification.

(B) These structural improvements provide for an improved court system, a uniform and equitable court system, and, therefor, increased access to justice for the citizens of California.

(5) Through the enactment of Assembly Bill 19 by Assembly Member Richard Robinson in 1985, Senate Bill 709 by Senator Bill Lockyer in 1987, and the Brown-Presley Trial Court Funding Act in

1988, the State of California has demonstrated its growing commitment to funding trial court operations.

(6) Although a long-stated goal of state and local government and the judicial branch, the state assumption of trial court funding has diminished, and the counties have been forced to fund a larger share of growing trial court operation costs.

(7) The growth in the costs of trial court operations can be substantially slowed through a variety of efficiencies and court coordination mechanisms.

(b) The Legislature declares its intent to do each of the following:

(1) Provide one-half the funding of trial court operations in the 1991–92 fiscal year and increase that share of funding by 5 percent per year until trial courts are substantially funded by the state.

(2) Reform and streamline the collection and allocation of penalties.

(3) Improve the coordination of trial court operations through a variety of administrative efficiencies, including coordination agreements between the trial courts, and thereby achieve substantial savings in trial court operations costs.

(4) Temporarily satisfy the need for additional judgeships through enhanced use of assigned judges, increased cross-assignment of judges, and implementation of trial court delay reduction mechanisms.

(5) Increase the state's ability to fund the trial courts through increasing fines and penalties, enhanced collection of fines, penalties, and forfeitures, and the recapture of court revenues not dedicated to court operations.

(6) Create a judicial branch budgeting system that protects the independence of the judiciary and optimizes local trial court control and responsibility, while preserving financial accountability to the overall state budget.

(7) Fund court employees in a manner that promotes cost control, uniformity, and equity.

SEC. 3. Section 12419.10 is added to the Government Code, to read:

12419.10. The Controller shall offset any amount overdue and unpaid for a fine, bail, or vehicle parking penalty from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law or from winnings in the California State Lottery. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

The Controller shall deduct and retain from any amount offset in favor of a county an amount sufficient to reimburse the Controller, the Franchise Tax Board, and the California State Lottery for their

administrative costs of processing the offset payment.

SEC. 4. Section 68090.8 is added to the Government Code, to read:

68090.8. (a) The Legislature finds that the management of criminal cases, including traffic cases, and the accounting for funds in the municipal and justice courts requires these courts to implement appropriate levels of automation. The purpose of this section is to make a fund available for the development of automated accounting and case-processing systems for the municipal and justice courts, together with funds to train operating personnel, and for the maintenance and enhancement of the systems.

(b) Prior to making any other required distribution, the county treasurer shall deposit 2 percent of all moneys collected in criminal cases, including, but not limited to, moneys collected pursuant to Chapter 12 (commencing with Section 76010) of Title 8 of this code, Section 13003 of the Fish and Game Code, Sections 11372.5 and 11502 of the Health and Safety Code, and Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code, into a fund which shall be used exclusively to pay the costs of automating municipal and justice court recordkeeping systems for criminal, including traffic, cases. These systems shall meet Judicial Council performance standards, including production of reports as needed by the state, the counties, and local governmental entities.

SEC. 5. Section 68106 is added to the Government Code, to read:

68106. The Judicial Council shall, in consultation with the Department of Finance and the Legislative Analyst, study the methods available for the inclusion of trial courts in the Budget Act, and shall report its findings and recommendations to the Legislature on or before March 1, 1992, as to the most efficient and cost-effective process for including trial courts in the Budget Act. The report shall also include recommendations on an equitable formula for the distribution of fine and forfeiture revenues subject to Section 1463 of the Penal Code in the 1992–93 fiscal year and thereafter.

SEC. 6. Section 68112 is added to the Government Code, to read:

68112. (a) On or before March 1, 1992, each superior, municipal, and justice court in each county, in consultation with the bar, shall prepare and submit to the Judicial Council for review and approval a trial court coordination plan designed to achieve maximum utilization of judicial and other court resources and statewide cost reductions in court operations of at least 3 percent in the 1992–93 fiscal year, a further 2 percent in the 1993–94 fiscal year, and a further 2 percent in the 1994–95 fiscal year. The cost reduction shall be based on the prior year actual expenditures increased by the percentage of population growth and the Department of Commerce implicit price deflator for state and local government. The coordination plan for each court shall be reviewed and approved by the Judicial Council on or before July 1, 1992.

(b) The coordination plan shall take into consideration the elements of such plans specified in standards adopted by the Judicial

Council and applicable case processing time standards adopted by the Judicial Council. The standards adopted by the Judicial Council shall include, but not be limited to, the following:

(1) The use of blanket cross-assignments allowing judges to hear civil, criminal, or other types of cases within the jurisdiction of another court.

(2) The coordinated or joint use of subordinate judicial officers to hear or try matters.

(3) The coordinated, joint use, sharing or merger of court support staff among trial courts within a county or across counties. In a county with a population of less than 100,000 the coordination plan need not involve merger of superior and justice court staffs if the court can reasonably demonstrate that the maintenance of separate administrative staffs would be more cost effective and provide better service.

(4) The assignment of civil, criminal, or other types of cases for hearing or trial, regardless of jurisdictional boundaries, to any available judicial officer.

(5) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(6) The establishment of separate calendars or divisions to hear a particular type of case.

(7) In rural counties, the use of all court facilities for hearings and trials of all types of cases and to accept for filing documents in any case before any court in the county participating in the coordination plan.

(8) The coordinated or joint use of alternative dispute resolution programs such as arbitration.

(9) The unification of the trial courts within a county to the maximum extent permitted by the Constitution.

(c) In preparing coordination plans a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units where a courtwide plan would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

SEC. 7. Section 68113 is added to the Government Code, to read:

68113. (a) The superior, municipal, and justice courts in each county shall submit a report to the Judicial Council on progress towards achieving the cost reduction goals associated with the coordination plans and factors impacting the cost of court operations and the collection of revenues. The report shall also include financial information on expenditures for court operations and revenues according to a uniform chart of accounts adopted by the Judicial Council. The first report shall be submitted on or before February 15, 1992, covering the period July 1, 1991, to December 31, 1991, inclusive. Thereafter the reports shall be submitted quarterly on or before the 15th day of the second month following the end of the quarter.

(b) For purposes of the reporting requirements of this section, a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units corresponding to the organization of the court or courts under a coordination plan where reporting courtwide would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(c) The Judicial Council shall submit a report to the Legislature within three months of the end of each fiscal year setting forth all of the following:

(1) The revenues and expenditures for each superior, municipal, and justice court in the state and statewide totals.

(2) A summary of the savings achieved by county and statewide.

(3) Factors impacting the cost of court operations and the collection of revenues.

SEC. 8. Section 68520 is added to the Government Code, to read:

68520. (a) On or before January 31, 1992, each superior, municipal, and justice court shall provide the Judicial Council with complete information regarding the number, classification, salary, and benefits of every officer and employee of the court who is involved in performing court operations, as defined in Section 77003.

(b) On or before July 1, 1992, the Judicial Council shall report to the Legislature its findings and recommendations on the disposition of trial court employees, including the possibility of continuing them as county employees for purposes of compensation and benefits, under the eventual state assumption of trial court funding. The Judicial Council shall also recommend methods of limiting increases in court employee compensation beyond that of comparable state employees. The goals of the recommendations shall be (1) uniformity, (2) equity, and (3) cost control. The study shall include the participation of three representatives selected by labor organizations representing court employees.

(c) It is the intent of the Legislature that existing structures pertaining to court employees, including, but not limited to, collective bargaining, merit systems, pensions, and other benefits shall remain in effect until July 1, 1993.

SEC. 9. Section 68543.5 of the Government Code is amended to read:

68543.5. Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court, he or she shall be compensated while so sitting at a rate equal to the full compensation of a judge of the court to which he or she is assigned, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. A retired judge of a justice court who is not under the Judges' Retirement Law and who is assigned to sit in a court shall be compensated while so sitting at the full compensation of a judge of the court to which he or she is assigned, or the compensation specified in Section 68541, whichever is greater. The compensation shall be chargeable for the period specified in

Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he or she is assigned and the compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

The compensation shall be in addition to the judge's retirement allowance. The receiving county shall pay the state 50 percent of the full salary of a judge of the court to which the retired judge is assigned for the time the judge serves the receiving court. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business. The receiving county shall reimburse the state for these expenses. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

The receiving county shall pay the state 50 percent of the full salary of a judge of the court to which the retired judge is assigned for the time the judge serves the receiving court. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

SEC. 10. Section 68543.6 of the Government Code is repealed.

SEC. 11. Section 68543.7 is added to the Government Code, to read:

68543.7. Subject to funding in the Budget Act, a retired judge sitting on assignment in a trial court shall be paid by the state in the amount, per judicial day, of 1/250th of the annual salary of a judge of the court to which he or she is assigned.

SEC. 12. Section 68620 is added to the Government Code, to read:

68620. Operative July 1, 1992, each municipal and justice court shall establish a delay reduction program in consultation with the local bar that is consistent with the provisions of this article. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all procedures, standards, or policies for a delay reduction program in municipal and justice courts on a statewide basis which are consistent with the provisions of the Trial Court Delay Reduction Act.

SEC. 13. Section 75025 of the Government Code is amended to read:

75025. Every judge who has the age and service qualifications specified in one of the following subdivisions, and who is not ineligible for retirement under Section 75026, shall be retired for service upon filing notice of retirement with the Judges' Retirement System, specifying the date upon which his or her retirement is to become effective:

(a) Age 70 or older, with an aggregate of 10 years of service as a judge within the 15 years immediately preceding the effective date of retirement.

(b) Age 69, with an aggregate of 12 years of service as a judge within the 16 years immediately preceding the effective date of retirement.

(c) Age 68, with an aggregate of 14 years of service as a judge within the 18 years immediately preceding the effective date of retirement.

(d) Age 67, with an aggregate of 16 years of service as a judge within the 20 years immediately preceding the effective date of retirement.

(e) Age 66, with an aggregate of 18 years of service as a judge within the 22 years immediately preceding the effective date of retirement.

(f) Age 65, with an aggregate of 20 years of service as a judge within the 24 years immediately preceding the effective date of retirement.

(g) Age 70 or older, with an aggregate of 20 years of service as a judge, the last five years of which has been served immediately preceding the effective date of retirement.

(h) Age 60, with an aggregate of 20 years of service as a judge.

Upon the effective date of the retirement of any judge, the judicial office from which he or she has retired shall become vacant, and a successor shall thereupon be appointed to fill the vacancy.

SEC. 14. Section 75028.1 of the Government Code is amended to read:

75028.1. (a) At the time of the filing of a notice of retirement under the Judges' Retirement Law to be effective after age 69½ but before the end of the term of office during which the judge attains age 70, a judge may elect senior judge status.

(b) A retired judge who retired under the Judges' Retirement Law before July 1, 1985, and who has attained age 60, may apply to the Chairperson of the Judicial Council for senior judge status.

(c) A judge who has left office at age 60 or older on or after July 1, 1985, and who has 20 years or more of retirement service credit under the Judges' Retirement Law, may apply to the Chairperson of the Judicial Council for senior judge status.

(d) A judge serving on senior judge status shall serve full time as assigned for up to three consecutive years and by accepting that status waives the right to refuse any assignment as otherwise

provided by law. A judge who elects to retire under this section is deemed retired, and the judicial office from which the judge retired shall become vacant and a successor shall then be appointed to fill the vacancy.

SEC. 15. Section 75028.3 of the Government Code is amended to read:

75028.3. Notwithstanding any other provision of law, senior judge status shall terminate at the end of three years, except that the status shall terminate earlier when any of the following occurs:

(a) The judge on senior judge status requests termination.

(b) The judge fails to perform service as assigned.

(c) The Commission on Judicial Performance so orders.

SEC. 16. Section 75033.5 of the Government Code is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to the end of the term of office during which he or she attains age 70 may retire, and upon his or her application therefor to the Judges' Retirement System after reaching the age which would have permitted him or her to retire for age and length of service under Section 75025 had he or she remained continuously in service as a judge up to that age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he or she is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his or her discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his or her retirement, not to exceed 20 years.

A judge who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance based upon actual service rendered.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years. For the purposes of calculating the percentage of compensation payable, part-time service shall be the equivalent of full-time service.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of at least age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he or she living and receiving the benefits accorded by this section, commencing with the day following the date of the death, if the judge dies after commencement of receipt of benefits, or the date

the judge would have been able to commence receipt of benefits but for his or her death, if his or her death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon that filing the judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he or she has retired shall become vacant. The notice and election of retirement shall be sufficient if it states in substance that the judge elects to retire under the benefits of this section.

A judge who leaves his or her office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he or she receives by virtue of his or her service in that office.

SEC. 17. Section 75075 of the Government Code is amended to read:

75075. Any judge hereafter retiring pursuant to Section 75025 or 75060 may elect to receive the benefits accorded by this article if he or she retires for service or disability prior to the end of the term of office during which he or she attains the age of 70 years.

Every judge who qualifies under this section shall be deemed to elect to receive the benefits accorded by this article, unless he or she makes an election to the contrary by filing written notice thereof with the Judges' Retirement System at or prior to retirement.

Any judge whose service would qualify him or her for any benefits under this article if the total of the service included an additional 60 days, shall be deemed to have credited to him or her, sufficient service to qualify for the benefit.

SEC. 18. Section 75076 of the Government Code is amended to read:

75076. (a) A judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article shall receive a retirement allowance equal to 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed; except that if upon retirement a judge has received credit for 20 or more years of service rendered prior to the expiration of the time within which the judge is eligible to elect to receive the benefits accorded by this article and for which he or she has contributed to the Judges' Retirement Fund his or her retirement allowance shall equal 75 percent of that salary or if he or she retires pursuant to Section 75060 after or while serving in a term of office subsequent to the term of office in which he or she attained the age of 70, his or her retirement allowance shall equal 50 percent unless he or she elects an actuarially reduced allowance based on his or her life and that of his or her spouse as provided under Section 75070.

(b) Any judge retiring after July 7, 1960, who has or shall become

entitled to credit for service as a judge of a court of record prior to the inclusion of the judges of those courts, or of all of those courts, under the Judges' Retirement Law, or as a "judge of an excluded court" as defined by Section 75029, or as a "constitutional officer" or "public legal officer" as defined by Section 75030.5, without having contributed therefor to the Judges' Retirement Fund, may at any time prior to retirement contribute for all or any part of that service by paying into the fund a sum of money computed by applying to the rate of salary which he or she actually received during his or her first year of service as a judge the rate of deduction first applicable to his or her salary as a judge after the inclusion of the judges of his or her court under the Judges' Retirement Law, multiplied by the period of service for which contributions are elected to be made, plus interest at 3 percent a year to the date of his or her payment upon the amounts of the deductions and from the respective dates they would have been made if he or she had been the holder of a judicial office subject to the provisions of the Judges' Retirement Law at the time of the rendition of the services for which he or she has received or hereafter receives that credit.

The amount of any contribution authorized by this subdivision and interest thereon shall be determined by the Judges' Retirement System in accordance with this subdivision.

(c) If the judge retires pursuant to Section 75025, the allowance is payable during the remainder of his or her life; if pursuant to Section 75060, it is payable as provided in Section 75060.6.

SEC. 19. Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code is repealed.

SEC. 20. Section 77200 of the Government Code is amended to read:

77200. (a) Except as provided in subdivisions (d) and (e), 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.

(3) Beginning with the 1992–93 fiscal year, it is the intent of the Legislature to increase the block grant by an amount sufficient to fund 55 percent of the annual state trial court budget for court operations. It is the intent of the Legislature that this funding shall increase to 60 percent for the 1993–94 fiscal year, to 65 percent for the 1994–95 fiscal year, and to 70 percent for the 1995–96 fiscal year.

(b) In any year in which the amounts provided pursuant to this section 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.

(c) 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.

(d) In the event the Budget Act provides additional moneys for trial court funding in excess of the amount required pursuant to subdivision (a), those moneys shall be apportioned to each option county, in the amount indicated in this subdivision for fiscal year 1991–92. These apportionments shall be in addition to those provided for in Section 77200 and shall be allocated by the Controller on a quarterly basis as provided in subdivision (c).

Jurisdiction	Amount
Alameda	$ 13,800,000
Alpine	46,000
Amador	161,000
Butte	701,000
Calaveras	184,000
Colusa	253,000
Contra Costa	5,750,000
Del Norte	276,000
El Dorado	1,012,000
Fresno	5,750,000
Glenn	253,000
Humboldt	897,000
Imperial	1,196,000
Inyo	483,000
Kern	5,980,000
Kings	598,000
Lake	253,000
Lassen	184,000
Los Angeles	83,720,000
Madera	575,000
Marin	1,955,000
Mariposa	69,000
Mendocino	621,000
Merced	1,426,000
Modoc	115,000
Mono	138,000
Monterey	3,680,000
Napa	851,000
Nevada	1,081,000
Orange	20,470,000
Placer	1,081,000
Plumas	92,000
Riverside	6,440,000
Sacramento	8,280,000

San Benito	138,000
San Bernardino	9,660,000
San Diego	10,580,000
San Francisco	4,911,000
San Joaquin	1,863,000
San Luis Obispo	1,426,000
San Mateo	4,140,000
Santa Barbara	2,530,000
Santa Clara	10,350,000
Santa Cruz	1,725,000
Shasta	1,587,000
Sierra	46,000
Siskiyou	667,000
Solano	2,990,000
Sonoma	3,450,000
Stanislaus	1,702,000
Sutter	230,000
Tehama	437,000
Trinity	92,000
Tulare	1,702,000
Tuolumne	276,000
Ventura	4,140,000
Yolo	1,242,000
Yuba	138,000
Total	$234,393,000

(e) In no event shall the total of the quarterly payments made on the block grant to an option county exceed 70 percent of the approved annual trial court budget for the county.

SEC. 21. Section 77201 of the Government Code is repealed.

SEC. 22. Title 8.5 (commencing with Section 77850) is added to the Government Code, to read:

TITLE 8.5. LOCAL PENALTIES

CHAPTER 1. PENALTIES FOR COUNTY PURPOSES

77850. (a) In each county there may be levied an additional penalty of seven dollars ($7) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the amounts 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 related 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 clause (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. However, the court may determine

a lesser additional penalty under this section upon a showing that the defendant is unable to pay the full amount. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(b) The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to Chapter 2. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this title.

(c) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this section is necessary to the county for the purposes authorized, with respect to each authorized fund established, for every parking offense where a fine or forfeiture is imposed, an added penalty of one dollar and fifty cents ($1.50) shall be included in the fine or forfeiture. The county treasurer shall place in the authorized fund one dollar and fifty cents ($1.50) 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 county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer one dollar and fifty cents ($1.50) for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surchages established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

CHAPTER 2. PENALTIES FOR JUSTICE FACILITIES

77901. (a) For the purpose of assisting counties 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 may establish in the county treasury a Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to resolutions adopted by a county in accordance with this chapter. The moneys of the Courthouse

Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of court buildings referred to in subdivision (a), 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 that excess is anticipated to be needed at a later time.

(c) Any excess courtroom or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the 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.

(d) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Except as otherwise provided by statute, deposits to the fund in accordance with this section shall continue through and including the 20th year after the initial year for which the surcharge or additional penalty is collected.

77902. (a) For the purpose of assisting authorized counties in the construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems, any authorized board of supervisors may by resolution establish in the county treasury a Criminal Justice Facilities Temporary Construction Fund. All amounts collected pursuant to resolutions adopted by a county in accordance with this chapter shall be deposited into the fund. The moneys of the Criminal Justice Facilities Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) For purposes of this chapter, "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 Facilities Temporary Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Except as otherwise provided by statute, deposits to the fund in accordance with this section shall

continue through and including the 20th year after the initial year for which the additional penalty is collected.

77903. (a) For the purpose of assisting authorized counties in the establishment of adequate fingerprint facilities in the county, the board of supervisors of any county may establish in the county treasury a County Automated Fingerprint Identification Fund into which shall be deposited the amounts collected pursuant to resolutions adopted by the board of supervisors as authorized in accordance with this title. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated fingerprint equipment and the replacement of existing automated fingerprint equipment, or for the reimbursement of local agencies within the county which have previously purchased, leased, operated, or maintained automated fingerprint equipment from other funding sources.

(b) For purposes of this section "automated fingerprint equipment" means that equipment designated for the storage or retrieval of fingerprint data which is compatible with the California Identification System Remote Access Network.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

77904. (a) Any county authorized to establish one or more special purpose funds shall receive deposits of penalties and fees from judicial proceedings in accordance with this title. The moneys of the fund shall be payable only for the purposes set forth in the authorizing section and at the time necessary therefor.

(b) The county treasurer shall place all penalties collected on offenses, and all surcharges collected on filing fees, pursuant to the authorizing resolution of the county in the designated special fund. The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Except as otherwise provided by statute, deposits to the fund in accordance with this section shall continue through and including the 20th year after the initial year for which the additional penalty is collected.

77905. With respect to any fund established pursuant to this chapter, the penalty amounts to be deposited in the fund shall be specified by resolution adopted by the board of supervisors of each county consistent with the authorizations set forth in Chapter 3 (commencing with Section 78011). Each resolution shall state that the implementation of the applicable sections is necessary to the county for the establishment of adequate courtroom or criminal justice facilities or other authorized purposes of the fund. The resolution shall set forth the amounts to be placed in the fund and

shall instruct 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 each court in the county.

CHAPTER 3. COUNTY PROVISIONS

Article 1. Alameda County

78011. Alameda County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties established by Section 77850 so long as the county maintains the Berkeley-Albany Municipal Court. In the event that the Berkeley-Albany Municipal Court is closed, Alameda County may not collect those funds.

78012. Alameda County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and to collect the penalties established by Section 77850 to support the fund.

78013. Alameda County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 2. Alpine County

78021. Alpine County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78022. Alpine County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78023. Alpine County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 3. Amador County

78031. Amador County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78032. Amador County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78033. Amador County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 4. Butte County

78041. Butte County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78042. Butte County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902

and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78043. Butte County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 5. Calaveras County

78051. Calaveras County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78052. Calaveras County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78053. Calaveras County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 6. Colusa County

78061. Colusa County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78062. Colusa County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78063. Colusa County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 7. Contra Costa County

78071. Contra Costa County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78072. Contra Costa County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78073. Contra Costa County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 8. Del Norte County

78081. Del Norte County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78082. Del Norte County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties

established by Section 77850 to support the fund.

78083. Del Norte County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 9. El Dorado County

78091. El Dorado County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78092. El Dorado County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78093. El Dorado County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 10. Fresno County

78101. Fresno County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78102. Fresno County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78103. Fresno County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 11. Glenn County

78111. Glenn County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78112. Glenn County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78113. Glenn County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 12. Humboldt County

78121. Humboldt County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78122. Humboldt County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78123. Humboldt County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 13. Imperial County

78131. Imperial County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78132. Imperial County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78133. Imperial County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

78134. 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 may by resolution establish in the county treasury a County Criminal Justice Investigation Fund pursuant to Section 77906.

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.

Article 14. Inyo County

78141. Inyo County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78142. Inyo County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78143. Inyo County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 15. Kern County

78151. Kern County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to

collect the penalties provided by Section 77850 to support the fund.

78152. Kern County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78153. Kern County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

78154. To assist Kern County in the improvement of county juvenile justice facilities or county juvenile justice rehabilitation facilities, the board of supervisors may by resolution establish in the county treasury a Juvenile Justice Facilities Temporary Construction Fund pursuant to Section 77906. The moneys in the Juvenile Justice Facilities Temporary Construction Fund shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county juvenile justice or county juvenile justice rehabilitation facilities.

The money in the fund may be used to finance any public agency funding mechanism which reduces an obligation incurred in reliance upon the authority granted by this section, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs.

Article 16. Kings County

78161. Kings County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78162. Kings County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78163. Kings County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 17. Lake County

78171. Lake County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78172. Lake County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78173. Lake County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 18. Lassen County

78181. Lassen County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78182. Lassen County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78183. Lassen County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 19. Los Angeles County

78191. (a) Los Angeles County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund. The fund shall be known as the Robbins Courthouse Construction Fund.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed and owed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower Courthouse.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (d) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the West San Fernando Valley, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, has commenced construction on a courthouse for the superior court with at least 18 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction on a courthouse for the West Los Angeles Branch of the Los Angeles Municipal Court District.

(d) All courtroom construction in the County of Los Angeles

which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the West Los Angeles Branch of the Los Angeles Municipal Court District, within the Pasadena Judicial District, within the Southeast Municipal Court District, within the South Bay Judicial District, within the Santa Monica Judicial District, or within the Antelope Valley Judicial District, until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, the South Bay Judicial District, and the Santa Monica Judicial District, and a facility for the superior and municipal courts in the Antelope Valley Judicial District.

(e) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley Statistical Area (as defined in subdivision (e) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(f) Deposits to the fund shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(g) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirements of this section.

78192. Los Angeles County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78193. Los Angeles County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 20. Madera County

78201. Madera County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78202. Madera County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78203. Madera County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 21. Marin County

78211. Marin County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78212. Marin County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78213. Marin County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 22. Mariposa County

78221. Mariposa County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77903.

78222. Mariposa County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78223. Mariposa County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 23. Mendocino County

78231. Mendocino County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78232. Mendocino County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78233. Mendocino County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 24. Merced County

78241. Merced County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78242. Merced County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78243. Merced County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 25. Modoc County

78251. Modoc County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78252. Modoc County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78253. Modoc County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 26. Mono County

78261. Mono County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78262. Mono County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78263. Mono County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 27. Monterey County

78271. Monterey County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78272. (a) Monterey County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

(b) 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.

78273. Monterey County is authorized to establish an Automated

Fingerprint Identification Fund pursuant to Section 77903.

Article 28. Napa County

78281. Napa County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78282. Napa County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78283. Napa County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 29. Nevada County

78291. Nevada County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78292. Nevada County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78293. Nevada County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 30. Orange County

78301. Orange County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78302. Orange County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78303. Orange County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

78304. (a) To assist Orange County in county criminal justice facility transition planning, the board of supervisors may establish by resolution a Transition Planning Trust Fund pursuant to Section 77904. The fund moneys, together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division payable only for county criminal justice facility transition planning. The money in the fund may be used through any public agency funding mechanism which reduces an obligation incurred in reliance upon the authority granted by this section, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs.

(b) 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.

(c) Deposits to the Orange County Transition Planning Trust Fund shall continue through and include the second year after the initial calendar year in which the assessment is collected. Deposits to the County Jail Fund shall continue until January 1, 2000.

Article 31. Placer County

78311. Placer County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78312. Placer County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78313. Placer County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 32. Plumas County

78321. Plumas County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78322. Plumas County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78323. Plumas County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 33. Riverside County

78331. Riverside County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78332. Riverside County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78333. Riverside County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 34. Sacramento County

78341. Sacramento County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78342. Sacramento County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties

established by Section 77850 to support the fund.

78343. Sacramento County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77905.

Article 35. San Benito County

78351. San Benito County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78352. San Benito County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78353. San Benito County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 36. San Bernardino County

78361. San Bernardino County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78362. San Bernardino County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78363. San Bernardino County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 37. San Diego County

78371. San Diego County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78372. San Diego County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78373. San Diego County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 38. City and County of San Francisco

78381. The City and County of San Francisco is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850

to support the fund.

78381.5. (a) Notwithstanding any other law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco may establish in the city and county treasury a San Francisco Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivision (d). The moneys of the San Francisco Courthouse Temporary Construction Fund together with any interest earned thereon shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the San Francisco Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if that excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the San Francisco Courthouse Temporary Construction Fund.

(d) In the City and County of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee in any civil action in either the municipal court or in any civil or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars ($50), and shall be collected in a manner as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco.

78382. The City and County of San Francisco is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and to collect the penalties established by Section 77850 to support the fund.

78383. The City and County of San Francisco is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 39. San Joaquin County

78391. San Joaquin County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78392. San Joaquin County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78393. San Joaquin County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77901.

Article 40. San Luis Obispo County

78401. San Luis Obispo County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77903.

78402. San Luis Obispo County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78403. San Joaquin County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 41. San Mateo County

78411. San Mateo County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78412. San Mateo County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78413. San Mateo County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 42. Santa Barbara County

78421. Santa Barbara County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78422. Santa Barbara County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78423. Santa Barbara County is authorized to establish an

Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 43. Santa Clara County

78431. Santa Clara County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78432. Santa Clara County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78433. Santa Clara County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 44. Santa Cruz County

78441. Santa Cruz County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78442. Santa Cruz County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78443. Santa Cruz County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 45. Shasta County

78451. Shasta County is authorized to establish the Statham-Robbins Courthouse Temporary Construction Fund pursuant to Section 77901.

78452. Shasta County is authorized to establish the Statham-Robbins Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78453. Shasta County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 46. Sierra County

78461. Sierra County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78462. Sierra County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established

by Section 77850 to support the fund.

78463. Sierra County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 47. Siskiyou County

78471. Siskiyou County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78472. Siskiyou County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78473. Siskiyou County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 48. Solano County

78481. Solano County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78482. Solano County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78483. Solano County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

78484. To assist Solano County in county jail operations, the board of supervisors may establish by resolution a County Jail Fund pursuant to Section 77904.

(a) The moneys in the fund, together with any interest earned thereon, shall be payable only for county jail operations. 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.

(b) Deposits to the County Jail Fund shall continue until January 1, 2000.

Article 49. Sonoma County

78491. Sonoma County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78492. Sonoma County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78493. Sonoma County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 50. Stanislaus County

78501. Stanislaus County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78502. Stanislaus County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78503. Stanislaus County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 51. Sutter County

78511. Sutter County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78512. Sutter County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78513. Sutter County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 52. Tehama County

78521. Tehama County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78522. Tehama County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78523. Tehama County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 53. Trinity County

78531. Trinity County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78532. Trinity County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78533. Trinity County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 54. Tulare County

78541. Tulare County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78542. Tulare County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78543. Tulare County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 55. Tuolumne County

78551. Tuolumne County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901 and to collect the penalties provided by Section 77850 to support the fund.

78552. Tuolumne County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78553. Tuolumne County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 56. Ventura County

78561. Ventura County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78562. Ventura County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78563. Ventura County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 57. Yolo County

78571. Yolo County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78572. Yolo County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78573. Yolo County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

Article 58. Yuba County

78581. Yuba County is authorized to establish a Temporary Courthouse Construction Fund pursuant to Section 77901.

78582. Yuba County is authorized to establish a Criminal Justice Facilities Temporary Construction Fund pursuant to Section 77902 and if the resolution so provides, to collect the penalties established by Section 77850 to support the fund.

78583. Yuba County is authorized to establish an Automated Fingerprint Identification Fund pursuant to Section 77903.

SEC. 24. Section 1205.1 is added to the Penal Code, to read:

1205.1. (a) All fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any superior court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated.

(b) Once a month there shall be transferred into the proper funds of the county an amount equal to 25 percent of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail.

(c) The total amount of the fines and forfeitures retained in the 1991–92 fiscal year by a county under this section shall not exceed 25 percent of the amount of fines and forfeitures retained by the county plus an amount equal to 5 percent of the fines and forfeitures retained by the county in the 1990–91 fiscal year.

(d) All moneys in excess of the amount transferred to the county under this section shall be transferred to the State Treasury.

SEC. 25. Section 1306 of the Penal Code is amended to read:

1306. (a) When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman is bound. The judgment shall be the amount of the bond plus costs, and notwithstanding any other law, no penalty assessments shall be levied or added to the judgment.

(b) If a court grants relief from bail forfeiture, it shall impose a monetary payment as a condition of relief to compensate the people for the costs of returning a defendant to custody pursuant to Section 1305. The amount imposed shall reflect the actual costs of returning the defendant to custody.

(c) If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

(d) A dismissal of the complaint, indictment, or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

(e) The district attorney or county counsel shall:

(1) Demand immediate payment of the judgment within 30 days after the summary judgment becomes final.

(2) If the judgment remains unpaid for a period of 20 days after demand has been made, shall forthwith enforce the judgment in the manner provided for enforcement of money judgments generally. If the judgment is appealed by the surety or bondsman, the undertaking required to be given in these cases shall be provided by a surety other than the one filing the appeal. The undertaking shall comply with the enforcement requirements of Section 917.1 of the Code of Civil Procedure.

(f) The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.

SEC. 26. Section 1463 of the Penal Code is amended to read:

1463. Except as otherwise specifically provided by law:

(a) All fines and forfeitures including all nonparking Vehicle Code fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court or justice court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated. The moneys so deposited with the county treasurer shall be distributed as follows:

(1) Once a month there shall be transferred into the proper funds of the county an amount equal to 25 percent of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by the state or by the county in which the court is situated, exclusive of fines or forfeitures or forfeitures of bail collected from any person arrested by a state officer and charged with the commission of an offense within the limits of a city within the county which shall be distributed as provided in paragraph (2).

(2) Except as otherwise provided in this subdivision, once a month there shall be transferred into the treasury of each city in the county an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by officers or other persons employed by the city or a state officer, and charged with the commission of an offense within that city.

(3) Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the amount of fines and forfeitures transferred to each city under paragraph (2) that were collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by each city in the county which is set forth in the following schedule:

County and city	Percentage
Alameda	
Alameda	18
Albany	29
Berkeley	19
Emeryville	13
Hayward	10
Livermore	7
Oakland	22
Piedmont	44
Pleasanton	17
San Leandro	9
County percentage	21
Amador	
Amador	25
Ione	25
Jackson	25
Plymouth	25
Sutter Creek	25
County percentage	29
Butte	
Biggs	75
Chico	22
Gridley	49
Oroville	9
County percentage	20
Calaveras	
Angels	62
County percentage	62
Colusa	
Colusa	13
Williams	17
County percentage	16
Contra Costa	
Antioch	11
Brentwood	24
Concord	18
El Cerrito	19
Hercules	14
Martinez	22
Pinole	22
Pittsburg	5
Richmond	14
San Pablo	12
Walnut Creek	24
County percentage	14

Del Norte	
Crescent City	19
County percentage	19
El Dorado	
Placerville	14
County percentage	14
Fresno	
Clovis	23
Coalinga	21
Firebaugh	16
Fowler	34
Fresno	26
Huron	24
Kerman	14
Kingsburg	34
Mendota	11
Orange Cove	24
Parlier	21
Reedley	30
Sanger	29
San Joaquin	15
Selma	14
County percentage	24
Glenn	
Orland	27
Willows	36
County percentage	32
Humboldt	
Arcata	9
Blue Lake	26
Eureka	11
Ferndale	30
Fortuna	17
Trinidad	11
County percentage	11
Imperial	
Brawley	8
Calexico	10
Calipatria	30
El Centro	5
Holtville	16
Imperial	6
Westmorland	12
County percentage	8
Inyo	
Bishop	25
County percentage	25
Kern	
Bakersfield	10
Delano	13

Maricopa	36
Shafter	15
Taft	19
Tehachapi	12
Wasco	28
County percentage	12
Kings	
Corcoran	31
Hanford	21
Lemoore	25
County percentage	25
Lake	
Lakeport	33
County percentage	33
Lassen	
Susanville	21
County percentage	21
Los Angeles	
Alhambra	13
Arcadia	11
Avalon	54
Azusa	11
Bell	11
Beverly Hills	14
Burbank	14
Claremont	5
Compton	16
Covina	11
Culver City	10
El Monte	11
El Segundo	11
Gardena	22
Glendale	16
Glendora	12
Hawthorne	7
Hermosa Beach	14
Huntington Park	12
Inglewood	16
La Verne	14
Long Beach	14
Los Angeles	8
Lynwood	9
Manhattan Beach	13
Maywood	15
Monrovia	11
Montebello	11
Monterey Park	11
Palos Verdes Estates	10
Pasadena	9

Pomona	12
Redondo Beach	15
San Fernando	17
San Gabriel	16
San Marino	5
Santa Monica	11
Sierra Madre	11
Signal Hill	24
South Gate	13
South Pasadena	9
Torrance	16
Vernon	25
West Covina	11
Whittier	11
County percentage	11
Madera	
Chowchilla	17
Madera	16
County percentage	17
Marin	
Belvedere	16
Corte Madera	12
Fairfax	30
Larkspur	30
Mill Valley	13
Ross	18
San Anselmo	11
San Rafael	13
Sausalito	21
County percentage	16
Mendocino	
Fort Bragg	19
Point Arena	40
Ukiah	10
Willits	24
County percentage	17
Merced	
Atwater	23
Dos Palos	21
Gustine	23
Livingston	14
Los Banos	13
Merced	18
County percentage	18
Modoc	
Alturas	42
County percentage	42
Monterey	
Carmel	17

Gonzales	10
Greenfield	13
King City	36
Monterey	13
Pacific Grove	22
Salinas	36
Soledad	16
County percentage	23
Napa	
Calistoga	37
Napa	11
St. Helena	12
County percentage	14
Nevada	
Grass Valley	7
Nevada City	17
County percentage	9
Orange	
County percentage	15
Placer	
Auburn	18
Colfax	8
Lincoln	26
Rocklin	16
Roseville	10
County percentage	14
Plumas	
Portola	19
County percentage	19
Riverside	
Banning	35
Beaumont	15
Blythe	9
Coachella	12
Corona	12
Elsinore	10
Hemet	35
Indio	16
Palm Springs	35
Perris	14
Riverside	16
San Jacinto	41
County percentage	35
Sacramento	
Folsom	31
Galt	25
Isleton	13
North Sacramento	10
Sacramento	21

County percentage	26
San Benito	
Hollister	9
San Juan Bautista	28
County percentage	11
San Bernardino	
Barstow	23
Chino	14
Colton	21
Fontana	15
Needles	33
Ontario	20
Redlands	28
Rialto	15
San Bernardino	20
Upland	14
County percentage	20
San Diego	
Carlsbad	8
Chula Vista	23
Coronado	25
Del Mar	8
El Cajon	17
Escondido	16
Imperial Beach	8
La Mesa	23
Lemon Grove	8
National City	14
Oceanside	15
San Marcos	8
Vista	8
San Diego	6
County percentage	25
San Joaquin	
Lodi	18
Manteca	8
Ripon	11
Stockton	14
Tracy	15
County percentage	14
San Luis Obispo	
Arroyo Grande	9
Paso Robles	26
Pismo Beach	8
San Luis Obispo	21
County percentage	16
San Mateo	
Atherton	27
Belmont	7

Burlingame	38
Colma	40
Daly City	24
Hillsborough	75
Menlo Park	12
Millbrae	16
Redwood City	27
San Bruno	13
San Carlos	8
San Mateo	42
South San Francisco	12
County percentage	21
Santa Barbara	
Guadalupe	28
Lompoc	16
Santa Barbara	11
Santa Maria	12
County percentage	13
Santa Clara	
Alviso	75
Campbell	16
Gilroy	28
Los Altos	16
Los Gatos	30
Morgan Hill	11
Mountain View	13
Palo Alto	21
San Jose	13
Santa Clara	16
Sunnyvale	26
County percentage	16
Santa Cruz	
Capitola	21
Santa Cruz	23
Watsonville	21
County percentage	22
Shasta	
Redding	22
County percentage	22
Sierra	
Loyalton	75
County percentage	75
Siskiyou	
Dorris	18
Dunsmuir	29
Etna	18
Fort Jones	46
Montague	75
Mount Shasta	37

Tulelake	33
Yreka	30
County percentage	29
Solano	
Benicia	17
Dixon	18
Fairfield	18
Rio Vista	19
Suisun	7
Vacaville	15
Vallejo	18
County percentage	19
Sonoma	
Cloverdale	40
Cotati	40
Healdsburg	40
Petaluma	24
Rohnert Park	40
Santa Rosa	40
Sebastopol	40
Sonoma	40
County percentage	40
Stanislaus	
Ceres	14
Modesto	15
Newman	10
Oakdale	15
Patterson	20
Riverbank	18
Turlock	19
County percentage	15
Sutter	
Live Oak	17
Yuba City	17
County percentage	17
Tehama	
Corning	26
Red Bluff	39
Tehama	10
County percentage	31
Tulare	
Dinuba	21
Exeter	23
Lindsay	24
Porterville	26
Tulare	20
Visalia	17
Woodlake	15
County percentage	21

Tuolumne	
Sonora	23
County percentage	23
Ventura	
Fillmore	16
Ojai	16
Oxnard	16
Port Hueneme	16
Santa Paula	16
Ventura	16
County percentage	16
Yolo	
Davis	22
Winters	19
Woodland	20
County percentage	20
Yuba	
Marysville	15
Wheatland	38
County percentage	15

In any county for which a county percentage is set forth in the above schedule and which contains a city which is not listed or which is hereafter created, there shall be transferred to the county general fund the county percentage. In any county for which no county percentage is set forth, and in which a city is hereafter created, there shall be transferred to the county general fund 15 percent of the amount transferred to the city under paragraph (2).

A county and a city therein may, by mutual agreement, adjust the percentages herein.

(b) Any money deposited with the court or with the clerk thereof which, by order of the court or for any other reason, should be returned, in whole or in part, to any person, or which is by law payable to the state or to any other public agency, shall be paid to that person or to the state or to the other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of the court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which the money was deposited, or within one year after an order made by the court for the return or delivery of the money to any person, shall be apportioned between the city and the county and paid or transferred in the manner provided above for the apportionment and payment of fines and forfeitures. This paragraph controls over any conflicting provisions of law.

(c) This section does not require any county or municipal or justice court to process a parking penalty under Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code for a city, district, or any other issuing agency prior to

the filing of a complaint.

(d) The total amount of the fines and forfeitures retained in the 1991–92 fiscal year by a county under this section shall be calculated by computing the amount of fines and forfeitures retained by the county plus an amount equal to 5 percent of the fines and forfeitures retained by the county in the 1990–91 fiscal year. All moneys in excess of 25 percent of that total amount shall be transferred to the State Treasury.

(e) The total amount of the fines and forfeitures retained in the 1991–92 fiscal year by a city under this section shall be calculated by computing the amount of fines and forfeitures retained by the city plus an amount equal to 5 percent of the fines and forfeitures retained by the city in the 1990–91 fiscal year. All moneys in excess of 50 percent of that total amount shall be transferred to the State Treasury.

SEC. 27. Section 1463.02 of the Penal Code is repealed.

SEC. 28. Section 1463.03 of the Penal Code is repealed.

SEC. 29. Section 1463.04 of the Penal Code is repealed.

SEC. 30. Section 1463.05 of the Penal Code is repealed.

SEC. 31. Section 1463.06 of the Penal Code is repealed.

SEC. 32. Section 1463.2 of the Penal Code is repealed.

SEC. 33. Section 1463.3 of the Penal Code is repealed.

SEC. 34. Section 1463.4 of the Penal Code is repealed.

SEC. 35. Section 1463.5a of the Penal Code is repealed.

SEC. 36. Section 1463.6 of the Penal Code is repealed.

SEC. 37. Section 1463.7 of the Penal Code is repealed.

SEC. 38. Section 1463.8 of the Penal Code is repealed.

SEC. 39. Section 1463.9 of the Penal Code is repealed.

SEC. 40. Section 1463.10 of the Penal Code is repealed.

SEC. 41. Section 1463.11 of the Penal Code is repealed.

SEC. 42. Section 1463.12 of the Penal Code is repealed.

SEC. 43. Section 1463.13 of the Penal Code is repealed.

SEC. 44. Section 1463.14 of the Penal Code is repealed.

SEC. 45. Section 1463.15 of the Penal Code is repealed.

SEC. 46. Section 1463.16 of the Penal Code is repealed.

SEC. 47. Section 1463.17 of the Penal Code is repealed.

SEC. 48. Section 1463.18 of the Penal Code is repealed.

SEC. 49. Section 1463.19 of the Penal Code is repealed.

SEC. 50. Section 1463.20 of the Penal Code is repealed.

SEC. 51. Section 1463.21 of the Penal Code is repealed.

SEC. 52. Section 1463.22 of the Penal Code is repealed.

SEC. 53. Section 1463.23 of the Penal Code is repealed.

SEC. 54. Section 1463.24 of the Penal Code is repealed.

SEC. 55. Section 1463.25 of the Penal Code is repealed.

SEC. 56. Section 1463.26 of the Penal Code is repealed.

SEC. 57. Section 1463.27 of the Penal Code is repealed.

SEC. 58. Section 1463.28 of the Penal Code is amended to read:

1463.28. (a) Notwithstanding any other provision of law, for each option county, as defined by Section 77004 of the Government Code,

the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) Once a month there shall be tranferred into the Restitution Fund an amount equal to 20 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(g) (1) Notwithstanding subdivision (f), of moneys so deposited, the revenues attributable to the state penalty provided for in subdivision (i) of Section 27315 of the Vehicle Code shall, on a monthly basis, be transferred to the Traumatic Brain Injury Fund, created pursuant to Section 5564.6 of the Welfare and Institutions Code, until the amount deposited in the Traumatic Brain Injury Fund, as determined by the Department of Finance, for any fiscal year equals five hundred thousand dollars ($500,000). All moneys in excess of that amount shall be utilized in accordance with subdivision (f).

(2) Any moneys deposited in the State Penalty Fund attributable

which has adopted the resolution specified in subdivision (b), that portion of fines and forfeitures, whether collected by the courts or by other processing agencies, which are attributable to an increase in the bail amounts adopted subsequent to the resolution pursuant to subdivision (c) or (d) of Section 1269b which would otherwise be divided between the county and cities within the county shall be deposited into the county general fund up to the annual limit listed in subdivision (b) for that county. Fine and forfeiture increments which exceed the specified annual limit shall be divided between the county and the cities within the county as otherwise provided by law. The scheduled bail amounts in such a county may exceed any limit established pursuant to subdivision (d) of Section 1269b.

(b) The counties which may adopt a resolution directing that future increments in fines and forfeitures as specified in subdivision (a) be deposited in the county general fund and the annual limit applicable to those counties is as follows:

County	Annual Limit
Alpine	$ 300,000
Amador	200,000
Butte	900,000
Calaveras	300,000
Contra Costa	100,000
Del Norte	200,000
Fresno	700,000
Humboldt	200,000
Kings	300,000
Lake	400,000
Lassen	200,000
Los Angeles	15,000,000
Madera	600,000
Mariposa	200,000
Mendocino	600,000
Modoc	200,000
Mono	200,000
Plumas	200,000
San Benito	300,000
San Diego	5,200,000
San Joaquin	1,000,000
Santa Clara	3,200,000
Sierra	300,000
Stanislaus	1,900,000
Sutter	800,000
Trinity	200,000
Tulare	2,000,000
Tuolumne	400,000
Yolo	700,000
Yuba	900,000

SEC. 59. Section 1463.29 of the Penal Code is repealed.

SEC. 60. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code, there shall be levied a state penalty in an amount equal to ten dollars ($10) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury with 70 percent to be deposited in the State Penalty Fund, which is hereby created and 30 percent to remain on deposit in the General Fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, but in no event shall the total amount be less than

to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with subdivision (f).

SEC. 61. Section 1464.8 is added to the Penal Code, to read:

1464.8. Notwithstanding any other provision of law, when an allocation and distribution of any fine, forfeiture, penalty, fee, or assessment collected in any criminal case is made, including, but not limited to, moneys collected pursuant to this chapter, Section 13003 of the Fish and Game Code, Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code, and Sections 11372.5 and 11502 of the Health and Safety Code, the allocation and distribution of any payment may be based upon the law in effect during the accounting period when the payment to the court is made.

SEC. 62. Section 97.38 of the Revenue and Taxation Code is amended to read:

97.38. (a) In the County of Ventura, the computations made pursuant to Section 97, for the 1989–90 fiscal year and each year thereafter, shall be modified as follows:

With respect to tax rate areas, except excluded tax rate areas, within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, distribute the amount determined pursuant to the TEA formula to all tax rate areas, except excluded tax rate areas, within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of the property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas, except excluded tax rate areas, in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 97 in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area, except an

excluded tax rate area, using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 97, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to all tax rate areas, except excluded tax rate areas, of qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated to those tax rate areas in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas, except excluded tax rate areas, within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the amount of funds allocated in each fiscal year to those tax rate areas, except excluded tax rate areas, within a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) (A) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(B) Of the total amount determined in subparagraph (A), the auditor shall compute a proportionate amount to be attributed to all tax rate areas, except excluded tax rate areas, within the community redevelopment agency. That proportionate amount shall be equal to that proportion which the amount determined in paragraph (2) in each fiscal year bears to the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in subparagraph (B) of paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year and each fiscal year thereafter in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(d) For purposes of this section, "excluded tax rate area" means either of the following:

(1) Any tax rate area included in territory annexed by the qualifying city and allocated a prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(2) Any tax rate area described in paragraph (1) which was detached from the county library district and which is also allocated an additional prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(e) (1) All existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas described in subdivision (d) shall remain in force.

(2) All existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas which were detached from the county library district but are not included in territory which was annexed by the qualifying city shall remain in force.

(3) All allocations to those tax rate areas described in subdivision (d), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 97 and Section 98.

(4) All allocations to those tax rate areas described in paragraph (2), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 97 and Section 98. However, the tax rate areas referred to in this paragraph shall also be distributed an amount of property tax revenue determined pursuant to the TEA formula which is over and above the amount allocated as provided in the preceding sentence.

(f) "Qualifying city" means any city which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1988–89 fiscal year which is less than 4 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to all tax rate areas, except excluded tax rate areas, in the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.04, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.04, the city is not a qualifying city.

(g) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(h) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city receives a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (g) and (h), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount which exceeds the city's appropriations limit.

(j) The amount not distributed to tax rate areas, except excluded tax rate areas, of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section which is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) The amount not distributed as a result of this section to the tax rate areas, except excluded tax areas, in each qualifying city shall be

allocated by the auditor to the county.

SEC. 63. Section 4150 of the Vehicle Code is amended to read:

4150. Application for the original or renewal registration of a vehicle of a type required to be registered under this code shall be made by the owner to the department upon the appropriate form furnished by it and shall contain all of the following:

(a) The true name , business or residence and mailing address, and social security number of the owner, and the true name and business or residence or mailing address of the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the vehicle, including the following data insofar as they may exist:

(1) The make, model, and type of body.

(2) The vehicle identification number or any other identifying number as may be required by the department.

(3) The date first sold by a manufacturer, remanufacturer, or dealer to a consumer.

(d) Any other information that is reasonably required by the department to enable it to determine whether the vehicle is lawfully entitled to registration.

SEC. 64. Section 4150.2 of the Vehicle Code is amended to read:

4150.2. Application for the original registration or renewal of the registration of a motorcycle shall be made by the owner to the department upon the appropriate form furnished by it, and shall contain all of the following:

(a) The true name , business or residence and mailing address, and social security number of the owner, and the true name and business or residence or mailing address of the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the motorcycle, including the following data insofar as they may exist:

(1) The make and type of body.

(2) The motor and vehicle identification numbers recorded exactly as they appear on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.

(3) The date first sold by a manufacturer, remanufacturer, or dealer to a consumer.

(d) Any other information that is reasonably required by the department to enable it to determine whether the vehicle is lawfully entitled to registration.

(e) The department shall maintain a cross-index file of motor and vehicle identification numbers registered with it.

SEC. 65. Section 4760.1 is added to the Vehicle Code, to read:

4760.1. (a) The department shall, before renewing the registration of any vehicle, check the record of the registered owner for conviction of traffic violations and traffic accidents.

(b) The department shall, before renewing the registration of any vehicle, check the record of the registered owner for notices of

failure to appear or pay a fine filed with it and shall refuse to renew the registration of the vehicle if the registered owner has violated his or her written promise to appear or failed to pay a lawfully ordered fine, unless the department has received a certificate issued by the magistrate or clerk of the court hearing the case in which the promise was given showing that the case has been adjudicated or unless the registered owner's record is cleared as provided in Chapter 6 (commencing with Section 41500) of Division 17. In lieu of the certificate of adjudication, a notice from the court stating that the original records have been lost or destroyed shall permit the department to renew the registration.

(c) Any notice received by the department pursuant to Section 40509 which has been on file five years may be removed from the department records and destroyed, in the discretion of the department.

SEC. 66. Section 12800 of the Vehicle Code is amended to read:

12800. Every application for an original or a renewal of, a driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, residence address, and social security number.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) The application shall contain provisions by which the applicant may indicate his or her willingness and intent to make an unrestricted anatomical gift of all or part of the applicant's body pursuant to the Uniform Anatomical Gift Act (Chapter 3.5

(commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

SEC. 67. Section 12808.1 is added to the Vehicle Code, to read:

12808.1. The department shall refuse to issue or renew any license if the applicant has been mailed a notice of delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees pursuant to Section 40220, and the applicant has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

SEC. 68. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway or any public lands and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway or any public lands are, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a

vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(i) (1) When any vehicle, other than a rented vehicle, is found upon a highway or any public lands and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded to the agency responsible for processing notices of parking violation or the registered owner of the vehicle is known to have been issued five or more notices for failure to appear in court for traffic violations for which no certificate has been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle or all traffic violations of the registered owner have been cleared, or both. A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(2) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered

owner is or may be entitled, as security for the deposit of bail for all notices of parking violations issued for the vehicle. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt thereof, bail for all notices of parking violations issued for the vehicle.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) (1) When any vehicle is found upon a highway, any public lands, or an offstreet parking facility with a registration expiration date in excess of one year before the date it is found on the highway, public lands, or the offstreet parking facility. However, if the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(2) As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for

the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway or any public lands shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When any vehicle is illegally parked and blocks the movement of a legally parked vehicle.

SEC. 69. Section 22651.7 of the Vehicle Code is amended to read:

22651.7. In addition to, or as an alternative to, removal, any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations, of a city or county in which a vehicle is located may immobilize the vehicle with a device designed and manufactured for the immobilization of vehicles, on a highway located within the territorial limits in which the officer or employee may act if the vehicle is found upon the highway and is known to have been issued five or more notices of parking violation over a period of five or more days to which the owner or person in control of the vehicle has not responded or the registered owner of the vehicle is known to have been issued five or more notices for failure to appear in court for traffic violations for which no certificate has been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17. The vehicle may be immobilized until that person furnishes to the immobilizing law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle or all traffic violations of the registered owner have been cleared, or both. A notice of parking violation issued to the vehicle shall be accompanied by a warning that repeated violations may result in the impounding or immobilizing of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the immobilizing law enforcement

agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is immobilized. Evidence of current registration shall be produced after a vehicle has been immobilized or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

SEC. 70. Section 40512.6 is added to the Vehicle Code, to read:

40512.6. If a defendant who elects to attend a traffic violator school in accordance with Section 42005 fails to submit proof of completion within the time ordered by the court or any extension thereof, the court may, following notice to the defendant, order that the fee paid by the defendant be converted to bail and declare the bail forfeited. The bail forfeiture under this section shall be distributed as provided by Section 42007. Upon forfeiture of the bail, the court may order that no further proceedings shall be had in the case.

SEC. 71. Section 40610 of the Vehicle Code is amended to read:

40610. (a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation, other than a violation of subdivision (a) of Section 5204, has occurred involving a registration, license, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section 40522.

(b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:

(1) Evidence of fraud or persistent neglect.

(2) The violation presents an immediate safety hazard.

(3) The violator does not agree to, or cannot, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

SEC. 72. Section 40611 is added to the Vehicle Code, to read:

40611. Upon proof of correction of an alleged violation of Section 12500, 12951, or 40610 of the Vehicle Code, the clerk shall collect a ten dollar ($10) transaction fee for each case. The fee shall be deposited by the clerk in accordance with Section 68084 of the Government Code, and allocated monthly as follows:

(a) One-third shall be transferred to the issuing local governmental entity for deposit in the general fund of the entity.

(b) One-third shall be transferred to the State Treasury for deposit in the State Penalty Fund established by Section 1464 of the Penal Code.

(c) One-third shall be deposited in the county general fund.

SEC. 73. Section 42007 of the Vehicle Code is amended to read:

42007. (a) The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a traffic violator school pursuant to Section 42005 or who attends any other court-supervised program of traffic safety instruction. The fee shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. As used in this subdivision, "total bail" means the amount established pursuant to Section 1269b of the Penal Code in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges, and penalty amounts. Where multiple offenses are charged in a single notice to appear, the "total bail" is the amount applicable for the lesser of the qualifying offenses. However, the court may determine a lesser fee under this subdivision upon a showing that the defendant is unable to pay the full amount.

The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by the school or other program.

(b) Revenues derived from the fee collected under this section shall be deposited in accordance with Section 68084 of the Government Code and allocated monthly as follows:

(1) .

(2) Three-fourths of the amount shall be deposited in the State Treasury.

(3) The remaining amount collected under subdivision (a) shall be deposited in the general fund of the county, provided that in any county in which a fund is established pursuant to Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code, the sum of one dollar ($1) for each fund so established shall

be deposited with the county treasurer and placed in that fund.

(c) As used in this section, "court-supervised program" includes, but is not limited to, any program of traffic safety instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

(d) The Judicial Council shall study the minimum eligibility criteria governing drivers seeking to attend traffic violator's school, and report to the Legislature on the advisability of uniform statewide criteria on or before January 1, 1993.

(e) The clerk of the county, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you decide not to attend traffic school your automobile insurance may be adversely affected.

SEC. 74. Section 42008 is added to the Vehicle Code, to read:

42008. (a) A state amnesty program for delinquent fines imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations, shall operate during the period of February 1, 1992, through April 30, 1992. The program shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or forfeiture was due and payable on or before April 1, 1991.

(b) Any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations, may pay to the municipal or justice court the following amount which shall be accepted in full satisfaction of the delinquent fine or bail:

(1) In those counties with a population of three hundred fifty thousand (350,000) or less, the court may accept either (A) 70 percent of the fine or bail or (B) the amount of one hundred dollars ($100) for an infraction or five hundred dollars ($500) for a misdemeanor.

(2) In those counties with a population over three hundred and fifty thousand (350,000), the court shall accept 70 percent of the fine or bail.

(c) No criminal action shall be brought against any person for a delinquent fine paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine made under the amnesty program.

(d) Notwithstanding Section 1463, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury and transferred to the State Treasury once each month.

(e) It is the intent of the Legislature in enacting this section to occupy the field and preempt local amnesty programs with respect to fines or forfeitures for infractions and misdemeanor violations of the Vehicle Code. However, this section does not occupy the field or preempt local amnesty programs with respect to parking violations.

SEC. 75. (a) The Judicial Council shall study the economic effects of decriminalizing minor violations of the Vehicle Code, and violations of ordinances, regulations, and provisions of that code governing the standing or parking of vehicles, and report to the Legislature, on or before March 1, 1992, which of those violations, if any, it recommends be decriminalized.

(b) As part of the study conducted in subdivision (a), the Judicial Council shall also examine any possible models or methods for alternative administrative resolution or adjudication of these minor violations and small claims actions outside of an adjudication in an judicial forum. Based on this examination and study, the Judicial Council shall make recommendations on an alternative forum in which to adjudicate these violations and the necessary procedures.

SEC. 76. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs, and 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 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. 77. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 help resolve an unprecedented fiscal crisis by providing for state funding of the operation of municipal, superior, and justice courts as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 91

An act to amend Sections 255, 260, 266, 267, and 268 of, to repeal and add Sections 257 and 265 of, and to add Section 274 to, the Health and Safety Code, to amend Sections 10100, 11322, 11322.2, 11460, 12301, 15200, 15204.2, 16500.5, 16500.55, 16501.5, and 18906.5 of, to add Sections 225.05, 881.5, 10101.1, 12309.5, 17000.5, and 17020 to, to add and repeal Sections 224 and 12301 of, to repeal Sections 15200 and 18917 of, to repeal and add Sections 10101, 12306, and 12309 of, and to add Chapter 12.9 (commencing with Section 18988) to Part 6 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 June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 255 of the Health and Safety Code is amended to read:

255. The department shall establish uniform standards of financial eligibility for treatment services under the California Children's Services Program, including a uniform formula for the repayment for services rendered by the program. Financial eligibility for treatment services under this program shall be limited to persons in families with an adjusted gross income of forty thousand dollars ($40,000) or less in the most recent tax year, as calculated for California state income tax purposes. However, the director may authorize treatment services for persons in families with higher incomes if the estimated cost of care to the family in one year is expected to exceed 20 percent of the family's adjusted gross income.

Necessary medical therapy treatment services under the California Children's Services Program rendered in the public schools shall be exempt from financial eligibility standards and enrollment fee requirements for such services when rendered to any handicapped child whose educational or physical development would be impeded without such services.

All counties shall use the uniform standards for financial eligibility and enrollment fees established by the department. All enrollment fees shall be used in support of the California Children's Services Program.

SEC. 2. Section 257 of the Health and Safety Code is repealed.

SEC. 3. Section 257 is added to the Health and Safety Code, to read:

257. (a) Beginning September 1, 1991, in addition to any other standards of eligibility pursuant to this article, each family with a child otherwise eligible to receive services under this article shall pay an annual enrollment fee as a requirement for eligibility for services,

except as specified in subdivision (f).

(b) The department shall determine the annual enrollment fee, which shall be a sliding fee scale based upon family size and income, and shall be adjusted by the department to reflect changes in the federal poverty level.

(c) "Family size" shall include the child, his or her natural or adoptive parents, siblings, and other family members who live together and whose expenses are dependent upon the family income.

(d) "Family income" for purposes of this article, shall include the total gross income, or their equivalents, of the child and his or her natural or adoptive parents.

(e) Payment of the enrollment fee is a condition of program participation. The enrollment fee is independent of any other financial obligation to the program.

(f) The enrollment fee shall not be charged in any of the following cases:

(1) The only services required are for diagnosis to determine eligibility for services, or are for medically necessary therapy pursuant to Section 255.3.

(2) The child is otherwise eligible to receive services and is eligible for full Medi-Cal benefits at the time of application or reapplication.

(3) The family of the child otherwise eligible to receive services under this article has a gross annual income of less than 200 percent of the federal poverty level.

(g) Failure to pay or to arrange for payment of the enrollment fee within 60 days of the due date shall result in disenrollment and ineligibility for coverage of treatment services 60 days after the due date of the required payment.

(h) The county shall apply the enrollment fee scale established by the department and shall collect the enrollment fee. The county may arrange with the family for periodic payment during the year if a lump-sum payment will be a hardship for the family. The agency director of California Children's Services may, on a case-by-case basis, waive or reduce the amount of a family's enrollment fee if, in the director's judgment, payment of the fee will result in undue hardship.

(i) By thirty days after the effective date of this section or August 1, 1991, whichever is later, the department shall advance to each county, as a one-time startup amount, five dollars and fifty cents ($5.50) for each county child who was receiving services under this article on June 30, 1990, and who was not a Medi-Cal beneficiary. This one-time payment shall be in addition to the 4.1 percent of the gross total expenditures for diagnoses, treatment and therapy by counties allowed under subdivision (c) of Section 268.

(j) Each county shall submit to the state, as part of its quarterly claim for reimbursement, an accounting of all revenues due and revenues collected as enrollment fees.

SEC. 4. Section 260 of the Health and Safety Code is amended to read:

260. When the department provides, or arranges for the provision of, services to physically handicapped children directly, as in the case of nonresident physically handicapped children, it shall enter into an agreement with parents, guardians or persons responsible for the care of handicapped children for payment of the enrollment fee.

SEC. 5. Section 265 of the Health and Safety Code is repealed.

SEC. 6. Section 265 is added to the Health and Safety Code, to read:

265. (a) (1) Annually, the board of supervisors shall appropriate a sum of money for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, equal to 25 percent of the actual expenditures for the county program under this article for the 1990–91 fiscal year, except as specified in paragraph (2).

(2) If the state certifies that a smaller amount is needed in order for the county to pay 25 percent of costs of the county's program from this source. The smaller amount certified by the state shall be the amount which the county shall appropriate.

(b) In addition to the amount required by subdivision (a), the county shall use an amount equal to the amount determined pursuant to subdivision (a) for purposes of this article.

(c) The state shall match county expenditures for this article from funding provided pursuant to subdivisions (a) and (b).

(d) The county may appropriate and expend moneys in addition to those set forth in subdivision (a) and (b) and the state shall match the expenditures, on a dollar-for-dollar basis, to the extent that state funds are available for this article.

(e) Nothing in this section shall require the county to expend more than the amount set forth in subdivision (a) plus the amount set forth in subdivision (b) nor shall it require the state to expend more than the amount of the match set forth in subdivision (c).

SEC. 7. Section 266 of the Health and Safety Code is amended to read:

266. (a) For those counties with a total appropriation of county and state funds not exceeding five hundred thousand dollars ($500,000) and upon the expenditure of county funds equivalent to a county appropriation pursuant to Section 265, the state department may, to the extent funds are available and with the approval of the county, from state-appropriated funds matched on an equal basis with the counties pay for services for cases deemed by it to represent emergencies or cases where medical care cannot be delayed without great harm to the child.

(b) After July 1, 1991, any program change which would expand California Children's Services Program eligibility or benefits shall be developed in consultation with state, county, and provider representatives and shall take into account county needs and

resources.

SEC. 8. Section 267 of the Health and Safety Code is amended to read:

267. The designated county agency shall administer the medical-therapy program in local public schools for physically handicapped children. As provided in Section 265, the state and counties will share in the cost of support of therapist salaries in these schools in the ratio of one dollar ($1) of state funds reimbursed quarterly to one dollar ($1) of county funds. The director shall establish standards for the maximum number of therapists employed in the schools eligible for state financial support in this program, the services to be provided, and the county administrative services subject to reimbursement by the state.

SEC. 9. Section 268 of the Health and Safety Code is amended to read:

268. (a) The state and the counties shall share in the cost of administration of the California Children's Services Program at the local level.

(b) (1) The director shall adopt regulations establishing minimum standards for the administration, staffing, and local implementation of this article subject to reimbursement by the state.

(2) The standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources, and shall be developed and revised jointly with state and county representatives.

(c) The director shall establish minimum standards for administration, staffing and local operation of the program subject to reimbursement by the state.

(d) Until July 1, 1992, reimbursable administrative costs, to be paid by the state to counties, shall not exceed 4.1 percent of the gross total expenditures for diagnosis, treatment and therapy by counties as specified in Section 265.

(e) Beginning July 1, 1992, this subdivision shall apply with respect to all of the following:

(1) Counties shall be reimbursed by the state for 50 percent of the amount required to meet state administrative standards for that portion of the county caseload under this article which is ineligible for Medi-Cal to the extent funds are available in the state budget for the California Children's Services Program.

(2) On or before September 15 of each year, each county program implementing this article shall submit an application for the subsequent fiscal year which provides information as required by the state to determine if the county administrative staff and budget meet state's standards.

(3) The state shall determine the maximum amount of state funds available for each county from state funds appropriated for CCS county administration. If the amount appropriated for any fiscal year in the Budget Act for county administration under this article differs from the amounts approved by the department, each county shall

submit a revised application in a form and at the time specified by the department.

(e) The state department and counties shall maximize the use of federal funds for administration, of the programs implemented pursuant to this article, including using state and county funds to match funds claimable under Title 19 of the Social Security Act.

SEC. 9.5. Section 274 is added to the Health and Safety Code, to read:

274. The department shall adopt regulations to implement the amendments of the provisions of this article in 1991. The adoption of the regulations shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 10. Section 224 is added to the Welfare and Institutions Code, to read:

224. (a) To ensure maintenance of effort on current child welfare, mental health, and probation programs, and the avoidance of inappropriate reliance on institutionalized care, the Health and Welfare Agency and the Youth and Adult Correctional Agency shall, until January 1, 1997, report annually to the appropriate committees of the Legislature as specified in subdivision (b).

(b) The Health and Welfare Agency shall report annually to the Legislature data on welfare supervised and probation supervised foster care caseloads, which shall include, but not be limited to, all of the following:

(1) The number of cases opened during the year and the percentage of increase or decrease over the previous year.

(2) The number of minors in foster family homes, in group homes, and in other facilities and the percentage of increase or decrease over the previous year.

(3) The number of minors in out-of-county and out-of-state placements and the percentage of increase or decrease over the previous year.

(4) The number of families receiving voluntary, in-home, supervision and the percentage of increase or decrease of those caseloads over the previous year.

(5) The number of minors reunified with their families, the number of terminations, the number of children receiving family preservation services pursuant to Section 16500.5, the number of adoptions, and the number of cases closed for other reasons.

(6) The number of minors, including those adjudicated pursuant to Sections 300 and 600 and those minors who were not so adjudicated, who were placed in state hospitals and private psychiatric facilities and the percentage of increase or decrease over the previous year.

(7) When available, the number of minors in foster care who have been in foster care previously.

(8) When available, the number of minors who have been referred to the Emergency Response program previously and the

number of previous referrals for these minors.

(9) The average length of stay of minors in out-of-home placements.

(c) The Youth and Adult Correctional Agency shall, utilizing any available information, including, but not limited to, data supplied by the Department of Justice and the Chief Probation Officers Association, report annually to the appropriate committees of the Legislature on all of the following:

(1) The number of minors adjudicated as court wards pursuant to Sections 601 and 602 and the percentage of increase or decrease over the previous year.

(2) The number of minors committed to Department of the Youth Authority facilities during the year, the commitment offenses by category, both felony and misdemeanor, and the percentage of increase or decrease by category over the previous year.

(3) The number of minors rejected for commitment by the Department of the Youth Authority pursuant to Section 736 and the percentage of increase or decrease over the previous year.

(4) The number of court wards in county juvenile halls, camps, and ranches and the percentage of increase or decrease over the previous year.

(5) The average length of stay for placements in juvenile halls, camps and ranches, and Department of the Youth Authority facilities.

(d) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 11. Section 225.05 is added to the Welfare and Institutions Code, to read:

225.05. (a) The Department of the Youth Authority shall convene a task force to identify and recommend methods of achieving better coordination of, and savings, in the continuum of correctional, rehabilitative, and preventive services for youthful offenders, including status offenders adjudicated pursuant to Section 601 and delinquents adjudicated pursuant to Sections 602 and 707. The department shall report on the findings and recommendations of the task force to the Legislature no later than January 15, 1992.

(b) The task force shall develop recommendations for achieving the following:

(1) The use of local community corrections options, including innovative methods of providing delinquency prevention and treatment programs.

(2) Innovative, intensive programs for wards committed to the Department of the Youth Authority facilities.

(3) Coordination with state and local programs which provide treatment and services to youthful offenders.

(4) Restructuring current state and local juvenile justice funding mechanisms in order to provide fiscal and program incentives for the utilization of local juvenile justice treatment and services, including,

but not limited to, the utilization of a negotiated net amount or rate model pursuant to Section 5700 et seq., for payment of costs associated with commitment of wards to the Department of the Youth Authority facilities.

(c) The task force shall be composed of persons knowledgeable in delinquency prevention programs, juvenile justice issues, and alternative juvenile justice models, including representatives of the Department of the Youth Authority, the State Department of Social Services, the Chief Probation Officers Association, the County Supervisors Association of California, the County Welfare Directors Association, the Juvenile Court Judges of California, and county and private nonprofit agencies involved with juvenile justice services. In developing its recommendations, the task force shall consult with representatives of providers of group home care for delinquent minors.

SEC. 12. Section 881.5 is added to the Welfare and Institutions Code, to read:

881.5. (a) If, during the 1991–92 fiscal year, a county receives funds pursuant to Section 17602, the county reduces the capacity of its juvenile homes, ranches, camps, or forestry camps below the capacity for those facilities during the 1990–91 fiscal year, and if during the 12-month period subsequent to the month of reduction, or any subsequent 12-month period, there is an increase of commitments from the county's juvenile court to the Department of the Youth Authority above the number of the commitments during the 1990–91 fiscal year, the county shall contribute to the Department of the Youth Authority an amount equivalent to the actual cost, as determined by the Department of the Youth Authority, of increasing capacity to the fiscal year 1990–91 level or by an amount equal to the increase in commitments from the juvenile court to the Department of the Youth Authority, whichever is more. Any reduction shall be applied to the next payment or payments to which the county is otherwise entitled.

(b) Any county that provides juvenile home, ranch, or camp space to another county pursuant to contract shall not have its entitlement reduced pursuant to this section if it reduces its capacity based on a reduction in the amount of space provided pursuant to the contract.

(c) This section shall not be applicable to a reduction in capacity occurring as a result of an act of God.

(d) This section shall not apply to the County of Alameda if its board of supervisors adopts a resolution on or before June 26, 1991, stating its intent to close a juvenile camp prior to September 1, 1991.

(e) As used in this section, "juvenile home, ranch, camp, or forestry camp" means those facilities established pursuant to Article 24 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code.

SEC. 13. Section 10100 of the Welfare and Institutions Code is amended to read:

10100. It is the intent of the Legislature that counties shall

continue to provide matching funds for county-administered social services programs as these programs are defined by Sections 12251 and 16501 and other services to be provided in accordance with Section 10102.

Nothing in this section shall be construed to affect any matching requirement established upon each county pursuant to Section 12306.

SEC. 14. Section 10101 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 10101 is added to the Welfare and Institutions Code, to read:

10101. For the 1991–92 fiscal year and each fiscal year thereafter, the state's share of the costs of the child welfare program shall be 70 percent of the actual nonfederal expenditures for the program or the amount appropriated by the Legislature for that purpose, whichever is less.

SEC. 16. Section 10101.1 is added to the Welfare and Institutions Code, to read:

10101.1. For the 1991–92 fiscal year and each fiscal year thereafter, the state's share of the costs of the county services block grant requirements shall be 70 percent of the actual nonfederal expenditures or the amount appropriated by the Legislature for that purpose, whichever is less.

SEC. 17. Section 11322 of the Welfare and Institutions Code is amended to read:

11322. (a) The county welfare department shall submit to the department a program budget proposal in conjunction with the administrative cost control plan for Aid to Families with Dependent Children, Medi-Cal, and Food Stamp programs. The budget proposal shall specify the costs associated with providing the range of services included in the county plan in the most cost-effective manner. The budget proposal shall identify the amount of funds expected to be spent for each component and shall provide supporting detail regarding the caseloads anticipated in each component and the amount to be spent for (1) county employees, by classification, (2) administrative support and overhead, and (3) contracted services and support.

(b) Prior to final approval of the county's budget proposal, the department shall notify each county of the amount of its allocation of funds to carry out the plan and the assumptions used to develop that allocation. If the allocation is less than the amount of funds that the county proposed in the program budget, the department shall notify the county that the proposed program budget exceeds the funds available. The department shall specify how the costs proposed by the county exceed the costs used to develop the county's allocation. The county may provide any additional documentation to justify the higher funding level. If, after reviewing the additional information, the department finds that the proposed program costs are not reasonable or cost-effective, the county shall submit the

necessary revisions to its program budget to keep program expenditures within the amount of its allocation.

(c) The state share of the nonfederal costs of the Greater Avenues of Independence program shall be 70 percent of the actual nonfederal expenditures for that program or the amount appropriated by the Legislature for that purpose, whichever is less.

SEC. 18. Section 11322.2 of the Welfare and Institutions Code is amended to read:

11322.2. (a) Counties shall continually monitor their program expenditures throughout the fiscal year. If a county determines that its anticipated expenditures will exceed the amount of that year's allocations as a result of an unexpected event, including caseload increases, court cases, or significant justifiable increases in component costs, the county shall immediately notify the department and submit a revised plan.

(b) Counties shall achieve cost reductions pursuant to a revised plan required by subdivision (a), primarily by reducing the number of participants in the program in a manner consistent with Section 11322.4. Counties may make program efficiencies to the extent those reductions do not threaten the guarantee of services as required by subdivision (b) of Section 11321.2. In its review, the department shall ensure that any efficiencies do not create an effective barrier to participation on the part of current or future clients.

(c) The state share of the nonfederal costs of the Greater Avenues of Independence program shall be 70 percent of the actual nonfederal expenditures for that program or the amount appropriated by the Legislature for that purpose, whichever is less.

SEC. 19. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments.

(b) "Care and supervision" includes food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation.

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider which are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish a standardized schedule of rates for group homes, effective July 1, 1990.

(d) Group home rates effective between July 1, 1989, and June 30, 1990, shall be set using current regulations and policies of the department.

(e) A foster care provider that accepts payments, following the effective date of this section, based on a rate established under this section, shall not receive rate increases or retroactive payments as the result of litigation challenging rates established prior to the effective date of this section. This shall apply regardless of whether a provider is a party to the litigation or a member of a class covered by the litigation.

(f) Nothing shall preclude a county from using a portion of its county funds to increase rates paid to family homes and foster family agencies within that county, and to make payments for specialized care increments, clothing allowances, or infant supplements to homes within that county, solely at that county's expense.

SEC. 20. Section 12301 of the Welfare and Institutions Code is amended to read:

12301. (a) The intent of the Legislature in enacting this article is to provide supplemental or additional services to the social and rehabilitative services in Article 6 (commencing with Section 12250) of this chapter. The Legislature further intends that necessary in-home supportive services shall be provided in a uniform manner in every county based on individual need consistent with this chapter, in the absence of alternative in-home supportive services provided by an able and willing individual or local agency at no cost to the recipient, except as required under Section 12304.5. An able spouse who is available to assist the recipient shall be deemed willing to provide at no cost any services under this article except nonmedical personal services and paramedical services. When a spouse leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care, the spouse shall also be paid for accompaniment when needed during necessary travel to health-related appointments and protective supervision.

(b) Each county shall be notified of its allocation and projected caseload by July 31 of each fiscal year, or 30 days after the enactment of the Budget Act, whichever occurs later, and shall submit a plan to the department within 30 days showing how the county intends to keep program expenditures under this article within the amount of its allocation.

(c) Each county shall report all of the following to the department by August 31 of each year:

(1) Information on caseload, including the number of persons who receive 20 or more hours of personal services, between 18 and 20 hours of personal services, the number of persons receiving protective supervision, and the number of cases per age of recipient.

(2) An estimate of the impact on caseload and hours of service in

the In-Home Supportive Services program in the current fiscal year from In-Home Supportive Services referrals made by any of the following programs:

(A) The new linkages program authorized by Chapter 1637 of the Statutes of 1984.

(B) Multipurpose senior service centers.

(C) Adult day health care centers.

(D) Diagnostically related groups and early hospital discharges.

(E) Preadmission screening.

(F) Reported adult abuse.

This estimate shall be based upon referrals from these programs made during the preceding fiscal year.

The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

When a county does not have the capability of reporting on all cases specified under paragraphs (1) and (2) in a timely manner, the county may report to the department on the basis of a representative sample of cases.

The department shall consider using this information to develop its annual budget request or, should the department decide that a deficiency appropriation is necessary, any deficiency request.

(d) On or before January 10 of each year, the department shall submit a report to the Joint Legislative Budget Committee and the fiscal committees of both houses which includes a compilation by county of the data collected pursuant to paragraphs (1) and (2) of subdivision (c) and, by county (1) the amount allocated at the beginning of the fiscal year, (2) the amount expended during the first three months of the fiscal year, (3) an estimate of total fiscal year expenditures, (4) any reallocation of funds among counties, and (5) a list, by county, of any new programs under subparagraphs (A), (B), (C), and (E) of paragraph (2) of subdivision (c).

(e) This section shall remain operative until July 1, 1992, and on and after that date, shall remain inoperative until July 1, 1994, at which date, this section shall become operative.

SEC. 21. Section 12301 is added to the Welfare and Institutions Code, to read:

12301. (a) The intent of the Legislature in enacting this article is to provide supplemental or additional services to the social and rehabilitative services in Article 6 (commencing with Section 12250) of this chapter. The Legislature further intends that necessary in-home supportive services shall be provided in a uniform manner in every county based on individual need consistent with the appropriation provided for those services in the annual Budget Act and this chapter, in the absence of alternative in-home supportive services provided by an able and willing individual or local agency at no cost to the recipient, except as required under Section 12304.5. An able spouse who is available to assist the recipient shall be deemed willing to provide at no cost any services under this article

except nonmedical personal services and paramedical services. When a spouse leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care, the spouse shall also be paid for accompaniment when needed during necessary travel to health-related appointments and protective supervision.

(b) Each county shall be notified of its allocation and projected caseload by July 31 of each year or 30 days after enactment of the annual Budget Act, whichever occurs later, and shall submit a plan to the department within 30 days showing how the county intends to keep program expenditures under this article within the amount of its allocation.

(c) (1) The department may reallocate funds from the existing appropriation to forestall the requirement of any service reductions on a county-by-county basis.

(2) If, during any fiscal year, a county cannot keep expenditures within the amount of its allocation plus any required matching funds, the county may reduce services on the basis of a case-by-case assessment of each recipient's level of need and living situation, upon notification to the department of the county's intention to reduce services.

(d) (1) If a county elects to implement service reductions pursuant to subdivision (c), the levels shall be calculated to reduce services only by an amount which would enable the county to remain within its allocation, together with required matching funds.

(2) None of the service reductions authorized by this section may be made for applicants or recipients for whom the reduction of services would result in imminent out-of-home placement.

(e) Counties shall use the following priorities in the implementation of any needed program reductions:

(1) Reduction in the frequency with which nonessential services are provided.

(2) Elimination of nonessential service categories.

(3) Termination or denial of eligibility to persons requiring only domestic services.

(4) Termination or denial of eligibility to persons who, in the absence of services, would not require placement in a medical out-of-home care facility.

(5) Per capita reduction in the cost of services authorized.

(f) Any program reductions shall be implemented so as to avoid, to the extent feasible within budgetary constraints, out-of-home placements.

(g) Counties shall use the options authorized by subdivision (e) in the order they are listed therein. In no event shall services be terminated or denied to any eligible person who in the absence of such services would become unemployed.

(h) (1) For purposes of this section "nonessential services"

means routine mending, ironing, heavy cleaning, domestic services, yard hazard abatement, except for snow removal, teaching and demonstration, and any other services specified by the department.

(2) Restrictions on nonessential services shall be excepted on a case-by-case basis when denial or termination of such services would result in placement in an out-of-home facility or in a loss of employment, in a life threatening situation in conditions which represent a substantial threat to health or safety, or in any other condition specified by the department.

(3) Essential services shall, at a minimum, include those services listed in subdivision (e) of Section 12304.

(i) The department shall notify the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature by January 10 of each year of any county which is required to implement service reductions pursuant to this section.

This section shall be effective from July 1, 1992, until June 30, 1994.

SEC. 22. Section 12306 of the Welfare and Institutions Code is repealed.

SEC. 23. Section 12306 is added to the Welfare and Institutions Code, to read:

12306. (a) The state and counties shall share the annual cost of providing services under this article as specified in this section.

(b) Except as provided in subdivision (c) the state shall pay to each county, from the General Fund and any federal funds available for that purpose 65 percent of the cost of providing services under this article, and each county shall pay 35 percent of the cost of providing those services.

(c) (1) For the period of July 1, 1992 to June 30, 1994, inclusive, the state's share of the cost of providing services under this article shall be limited to the amount appropriated for that purpose in the annual Budget Act.

(2) It is the intent of the Legislature that any deficiency required for 1991–92 for the In-Home Supportive Services program shall be offset against the amount appropriated for this program in the 1992–93 fiscal year. To the extent possible, any savings realized from implementation of the personal care option under the Federal Medicaid Program Title XIX of the Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code) shall be used to offset any deficiency in the 1991–92 fiscal year the In-Home Supportive Services program.

SEC. 24. Section 12309 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 12309 is added to the Welfare and Institutions Code, to read:

12309. (a) In order to assure that in-home supportive services are delivered in all counties in a uniform manner, the department shall develop a uniform needs assessment tool.

(b) (1) Each county shall, in administering this article, use the uniform needs assessment tool developed pursuant to subdivision (a)

in collecting and evaluating information.

(2) For purposes of paragraph (1), "information" includes, but is not limited to, all of the following:

(A) The recipient's living environment.

(B) Alternative resources.

(C) The recipient's functional abilities.

(c) (1) The uniform needs assessment tool developed pursuant to subdivision (a) shall evaluate the recipient's functioning in activities of daily living and instrumental activities of daily living.

(2) The recipient's functioning shall be quantified, using the general hierarchical five-point scale for ranking each function, as specified in subdivision (d).

(d) The recipient's functioning ranks shall be as follows:

(1) Rank one. A recipient's functioning shall be classified as rank one if his or her functioning is independent, and he or she is able to perform the function without human assistance, although the recipient may have difficulty in performing the function, but the completion of the function, with or without a device or mobility aid, poses no substantial risk to his or her safety.

(2) Rank two. A recipient's functioning shall be classified as rank two if he or she is able to perform a function, but needs verbal assistance, such as reminding, guidance, or encouragement.

(3) Rank three. A recipient's functioning shall be classified as rank three if he or she can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.

(4) Rank four. A recipient's functioning shall be classified as rank four if he or she can perform a function, but only with substantial human assistance.

(5) Rank five. A recipient's functioning shall be classified as rank five if he or she cannot perform the function, with or without human assistance.

SEC. 26. Section 12309.5 is added to the Welfare and Institutions Code, to read:

12309.5. (a) (1) The Secretary of Health and Welfare shall convene a working task force of representatives of the counties, client advocates, and other state departments as the secretary deems appropriate to the following ends:

(A) To recommend the proper role of the In-Home Supportive Services program (IHSS) in the long-term care continuum, including, but not limited to, the following long-term care programs: Meals on Wheels, Congregate Meal Services, Multipurpose Senior Services Projects, Linkages, adult day health care, Alzheimer's day care respite programs, regional centers, Adult Protective Services, home health agencies, and other Medi-Cal funded services including acute hospitalizations and skilled nursing facilities.

(B) To explore the feasibility of using the uniform assessment tool developed pursuant to Section 12309 to determine an individual's functional level and need for long-term care services as a means of

eliminative duplicative assessments.

(C) To maximize federal medicaid funds under subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code for community-based long-term care.

(D) To develop recommendations for coordination of all services in the long-term care continuum, including, but not limited to, pre- and post-admission screening for skilled nursing facilities, giving consideration to the approach utilized by the Linkages program, capitated long-term care systems, and the Multipurpose Senior Services Program.

(E) To make recommendations for improving the delivery of long-term care services in a manner which reduces the overall costs for long-term care and avoids placements in expensive and inappropriate institutions and the role IHSS would have in accomplishing these improvements.

(F) To review program policies and procedures to recommend IHSS program efficiencies and improvements.

(2) In performing the tasks listed in paragraph (1), the task force shall consult with employee and agency providers of long-term care services.

(b) The secretary shall report by January 31, 1992, to the chairs of the appropriate policy and fiscal committees of the Legislature on proposals for legislative action necessary to implement recommendations for IHSS program efficiencies and improvements.

(c) The secretary shall investigate the feasibility of maximizing federal funds by pursuing medicaid matching funds for the In-Home Supportive Services program as a personal care service, to the extent that it provides net revenue to the state. It is the intent that any federal funding acquired on this basis shall be first dedicated to defray the cost of any program deficiency in the In-Home Supportive Services program.

SEC. 27. Section 15200 of the Welfare and Institutions Code, as amended by Section 7 of Chapter 1294 of the Statutes of 1989, is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting available federal funds, the following sums:

(a) To each county for the support and maintenance of needy children, 95 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e) of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 95 percent of the sums specified in subdivisions (b) and (c) of Section 11450.

(c) To each county for the support and maintenance of needy children, 40 percent of the sum necessary for the adequate care of each child pursuant to subdivision (d) of Section 11450.

(d) To each county for the support and care of hard-to-place adoptive children, 75 percent of the nonfederal share of the amount specified in Section 16121.

(e) This section shall remain in effect only until July 1, 1995, or until two years after the implementation of the Child Welfare Services Case Management System as specified in Section 16501.5, whichever occurs last, and as of that date is repealed, unless a later enacted statute which is chaptered before July 1, 1990, or two years after the implementation of the Child Welfare Services Case Management System, deletes or extends that date.

SEC. 28. Section 15200 of the Welfare and Institutions Code, as amended by Section 8 of Chapter 1092 of the Statutes of 1987, is repealed.

SEC. 29. Section 15200 of the Welfare and Institutions Code, as amended by Section 19 of Chapter 1294 of the Statutes of 1989, is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

(a) To each county for the support and maintenance of needy children, 95 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e), of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 95 percent of the sum specified in subdivisions (b) and (c) of Section 11450.

(c) For the adequate care of each child pursuant to subdivision (d) of Section 11450, as follows:

(1) For any county which meets the performance standards or outcome measures in Section 11215, an amount equal to 40 percent of the sum necessary for the adequate care of each child.

(2) For any county which does not meet the performance standards or outcome measures in Section 11215, an amount which shall not be less than 67.5 percent of one hundred twenty dollars ($120), and multiplied by the number of children receiving foster care in the county, added to an additional twelve dollars and fifty cents ($12.50) a month per eligible child.

(3) The department shall determine the percentage of state reimbursement for those counties which fail to meet the requirements of subparagraph (1) according to the regulations required by subdivision (b) of Section 11215.

(d) To each county for the support and care of hard-to-place adoptive children, 75 percent of the nonfederal share of the amount specified in Section 16121.

(e) The State Department of Social Services shall not implement any change in the current funding ratios to counties as a reimbursement for out-of-home care placement until the development of a new performance standard system. The State Department of Social Services shall notify the Department of Finance when the new performance standard system is developed and ready for implementation. The Department of Finance, pursuant to the provisions of Section 28 of the Budget Act, shall notify the Joint Legislative Budget Committee in writing of its intent to

implement a new performance standard that would impact the counties' funding allocation. The notification shall include the text of the draft regulations to implement the performance standards. Any adjustment in the county funding allocation shall not be implemented sooner than 60 days after receipt and review of the new performance standard by the Joint Legislative Budget Committee and a review of the proposed changes by the Legislative Analyst.

(f) This section shall become operative on July 1, 1995, unless the Child Welfare Services Case Management System is not implemented statewide July 1, 1993, as specified in Section 16501.5. If the Child Welfare Services Case Management System is implemented later than July 1, 1993, this section shall become operative two years after the implementation of the Child Welfare Services Case Management System.

SEC. 30. Section 15204.2 of the Welfare and Institutions Code is amended to read:

15204.2. The state shall pay 70 percent of the nonfederal administrative costs of administering AFDC grants 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 the non-AFDC administrative costs. The state shall pay 70 percent of the nonfederal share of the cost of eligibility and nonservice staff development pursuant to the regulations of the department.

SEC. 31. Section 16500.5 of the Welfare and Institutions Code is amended to read:

16500.5. (a) (1) The Legislature hereby finds and declares its intent to encourage the continuity of the family unit by:

(A) Providing services to families to avoid or limit out-of-home placement of children through a family preservation program serving children who are at imminent risk of placement and would be eligible for AFDC-FC if they were placed out of their own homes.

(B) Providing supportive services for those children within the meaning of Sections 361 and 364 when they are returned to the family unit or when a minor will probably soon be within the jurisdiction of the juvenile court pursuant to Section 330.

(C) Providing counseling and support designed to eradicate the situation that necessitated intervention.

(2) The Legislature finds that maintaining abused and neglected children in foster care grows increasingly costly each year, and that adequate funding for family services which might enable these children to remain in their homes is not as readily available as funding for foster care placement.

(3) The Legislature further finds that other state bodies have

addressed this problem through various systems of flexible reimbursement in child welfare programs that provide for more intensive and appropriate services to prevent foster care placement or significantly reduce the length of stay in foster care.

(4) Accordingly, it is the intent of the Legislature in enacting this section to establish a system of flexible reimbursement in order to evaluate its potential as an efficient, economical, and effective alternative to out-of-home placement of children.

(b) (1) (A) (i) Any county, subject to the approval of the State Department of Social Services, may claim, on an annual basis, a portion of the state's share of that county's AFDC-FC expenditures pursuant to subdivision (d) of Section 11450 in advance, provided the county conducts a program of family reunification and family maintenance services for families receiving these services pursuant to Sections 300, 330, 361, and 364.

(ii) The department or a participating county may terminate a county's participation in the program upon 30 days' notice if the project is deemed unsuccessful by either party.

(iii) For each fiscal year, a participating county may claim in advance an amount up to 10 percent of the projected state's share of AFDC-FC funds to be expended by that county pursuant to subdivision (d) of Section 11450.

(iv) The specific amount of funds to be advanced each year shall be determined by projecting the state share of AFDC-FC General Fund expenditures, for abused or neglected children supervised and placed by the county welfare department for each of the program years based upon state expenditures for AFDC-FC for the previous five years.

(B) If the county's total AFDC-FC General Fund expenditures, added to the amount expended from the advance to the county exceeds, by more than 5 percent, the county's total projected AFDC-FC General Fund expenditures for that fiscal year, the county shall fund that portion of the overage in excess of 5 percent on a 100 percent basis. If the sum of a participating county's total AFDC-FC General Fund expenditures for their children, added to the amount expended from the advance to the county, is less than the total projected AFDC-FC General Fund expenditures for their children for that fiscal year, the county shall receive 25 percent of the amount of the savings.

(2) A participating county's share of expenditures in excess of the projected total may be reduced upon approval of the department and the Department of Finance based on consideration of any unanticipated factors which result in higher than projected AFDC-FC expenditures.

(3) Services which may be provided under this program may include, but are not limited to, counseling, parenting, respite, day treatment, transportation, and homemaking. Additional services may include those enumerated in Sections 16506.1 and 16507.1. The services to be provided pursuant to this section may be determined

by each participating county. Each county may contract with individuals and organizations for services to be provided pursuant to this section.

(4) (A) Participating counties authorized by this subdivision shall provide specific programs of direct services based on individual family needs as reflected in the service plans to families of the following:

(i) Children who are dependent children not taken from physical custody of their parents or guardians pursuant to Section 364.

(ii) Children who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361.

(iii) Children who it is determined will probably soon be within the jurisdiction of the juvenile court pursuant to Section 330.

(B) The county welfare department social worker may return a dependent minor removed from the home pursuant to Section 361, with appropriate program services, pursuant to an appropriate court order.

(5) The services shall only be provided to families whose children are certified by a juvenile court judge to be children who will be placed in out-of-home care without the provision of services or to be children who can be returned to their families with the provision of services.

(6) The services selected by any participating county shall be reasonable and meritorious and shall demonstrate cost effectiveness and success at avoiding out-of-home placement, or reducing the length of stay in out-of-home placement. A county shall not expend more funds for services under this subdivision than that amount which would be expended for placement in out-of-home care.

(7) The program in each county shall be deemed successful if at least 75 percent of the children receiving services remain in their own home for six months after termination of services, and if 60 percent remain at home one year after services are terminated. With respect to children selected to receive services who have already been removed from their home and placed in out-of-home care, the county program shall be deemed successful if the average length of stay in out-of-home care is 50 percent less than the average length of stay in out-of-home care of children who do not receive program services.

(8) Funds used for services provided under this section shall supplement, not supplant, child welfare services funds available for services pursuant to Sections 16506.1 and 16507.1.

(9) Each county participating in the program authorized by this section may, subject to the approval of the department, continue to utilize the advance fund-claiming mechanism specified in paragraph (1) if it demonstrates the successful outcome of the county program, based on the criteria for success specified in paragraph (7).

(10) The department shall submit a report to the Legislature that includes data from each participating county demonstrating to what extent each has met the criteria specified in this section. An interim

report shall be submitted by the department no later than six months after the conclusion of the three pilot projects with a final report to be submitted after pilot project completion. Programs authorized after the original pilot projects shall submit data to the department upon the department's request. Subsequent reports to the Legislature on the programs administered pursuant to this section shall be included with the child welfare system report to the Legislature.

(c) A county welfare department social worker or probation officer may, pursuant to an appropriate court order, return a dependent minor or ward of the court removed from the home pursuant to Section 361 to his or her home, with appropriate interagency family preservation program services.

(d) State foster care funds shall remain within the administrative authority of the county welfare department and shall be used only for placement services or placement prevention services or county welfare department administrative cost related to the interagency family preservation program.

(e) To the extent permitted by federal law, any federal funds provided for services to families and children may be utilized for the purposes of this section.

(f) A county may establish family preservation programs that serve one or more geographic areas of the county, subject to the approval of the State Department of Social Services.

SEC. 32. Section 16500.55 of the Welfare and Institutions Code is amended to read:

16500.55. (a) Subject to the approval of the State Department of Social Services and the Department of Finance, the family preservation program provided for under Section 16500.5 may be expanded to allow the participation of any county which submits a family preservation plan pursuant to Section 16500.5 to the State Department of Social Services.

(b) All of these family preservation programs shall be implemented and administered in accordance with Section 16500.5.

(c) The department shall only approve participation of any county that was not participating in the program, pursuant to subdivision (b) of Section 16500.5, on September 21, 1990, if the county has a high probability of success and if the majority of the family preservation projects are deemed successful, based on criteria set forth in paragraph (7) of subdivision (b) of Section 16500.5.

(d) Not more than 24 additional counties per year may participate pursuant to this section.

(e) Any county which participates in the program pursuant to this section on or after the effective date of the act which amends this section in the 1991 calendar year shall provide services to children who have been adjudged wards of the court pursuant to Sections 601 and 602 only to the extent approved by the department.

SEC. 33. Section 16501.5 of the Welfare and Institutions Code is amended to read:

16501.5. (a) In order to protect children and effectively administer and evaluate California's Child Welfare Services and Foster Care programs, the department shall implement a single statewide Child Welfare Services Case Management System no later than July 1, 1993.

(b) It is the intent of the Legislature in developing and implementing a statewide Child Welfare Services Case Management System to minimize the administrative and systems barriers which inhibit the effective provision of services to children and families by applying current technology to the systems which support the provision and management of child welfare services. Therefore, it is the intent of the Legislature that the Child Welfare Services Case Management System achieve all of the following:

(1) Provide child welfare services workers with immediate access to child and family specific information in order to make appropriate and expeditious case decisions.

(2) Provide child welfare services workers with the case management information needed to effectively and efficiently manage their caseloads and take appropriate and timely case management actions.

(3) Provide state and county child welfare services management with the information needed to monitor and evaluate the accomplishment of child welfare services tasks and goals.

(4) Provide all child welfare services agencies with a common data base and definition of information from which to evaluate the child welfare services programs in terms of the following:

(A) Effectiveness in meeting statutory and regulatory mandates, goals, and objectives of the programs.

(B) Effectiveness in meeting the needs of the families and children serviced by the program.

(C) Projecting and planning for the future needs of the families and children served by the program.

(5) Meeting federal statistical reporting requirements with a minimum of duplication of effort.

(6) Consolidate the collection and reporting of information for those programs which are closely related to child welfare services, including foster care and emergency assistance.

(7) Utilize the child welfare services functionality defined in current and planned automated systems as the foundation for the development of the technical requirements for the Child Welfare Services Case Management System.

(c) It is the intent of the Legislature that the Child Welfare Services Case Management System shall provide the required comprehensive and detailed individual county data needed by the department to implement and monitor the performance standards system specified in Section 11215.

(d) If the Child Welfare Services Case Management System is not implemented statewide by July 1, 1993, Section 15200, which provides for State Treasury appropriations equal to 40 percent of the

sum necessary for the adequate care of each child pursuant to subdivision (d) of Section 11450, shall remain in effect until two years after the implementation of the Child Welfare Services Case Management System.

SEC. 34. Section 17000.5 is added to the Welfare and Institutions Code, to read:

17000.5. (a) The board of supervisors in any county may adopt a general assistance standard of aid that is 62 percent of a guideline that is equal to the 1991 federal official poverty line and may annually adjust that guideline in an amount equal to any adjustment provided under Chapter 2 (commencing with Section 11200) of Part 3 for establishing a maximum aid level in the county.

(b) The adoption of a standard of aid pursuant to this section shall constitute a sufficient standard of aid.

(c) Nothing in this section is intended to abrogate preexisting settlements.

(d) For purposes of this section, "federal official poverty line" means the same as it is defined in subsection (2) of Section 9902 of Title 42 of the United States Code.

SEC. 35. Section 17020 is added to the Welfare and Institutions Code, to read:

17020. Any person who is eligible for aid under Chapter 2 (commencing with Section 11200) of Part 3 shall not be eligible for monthly payments provided pursuant to this part if the maximum payment standard established by a county pursuant to Section 17001 exceeds the payment level established pursuant to subdivision (a) of Section 11450.

SEC. 35. Section 18906.5 of the Welfare and Institutions Code is amended to read:

18906.5. The state shall pay 70 percent of the nonfederal costs of administering the Food Stamp program, subject to the provisions of Sections 18906 and 18906.7. The counties shall pay the remaining share of the nonfederal costs.

SEC. 36. Section 18917 of the Welfare and Institutions Code is repealed.

SEC. 37. Chapter 12.9 (commencing with Section 18988) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.9. REGULATORY FLEXIBILITY FOR ADULT SOCIAL SERVICES

18988. (a) In order to ensure maximum flexibility in providing adult social services programs administered by the State Department of Social Services, including, but not limited to, In-Home Supportive Services and adult protective services, and that are impacted by the realignment of state and county services by the act that added this chapter, a county may submit to the Director of Social Services a request to waive existing state regulations which hinder the coordination and provision of services.

(b) Any county may appeal any negative decision regarding a requested waiver of state regulations submitted pursuant to subdivision (a) that is made by the Director of Social Services to the Secretary of the Health and Welfare Agency.

18988.05. Any request under this chapter shall contain, at a minimum, all of the following:

(a) The regulation or regulations for which the county requests a waiver.

(b) A statement as to why the identified regulation or regulations should be waived.

(c) A statement as to why the identified regulation or regulations inhibit the efficient administration of the program.

(d) A comparison of the following:

(1) The services and the number of persons to be served under the requested waiver.

(2) The services and the number of persons to be served without the requested waiver.

(e) Projected costs or savings due to the requested waiver.

(f) Any impact on state and federal funding.

18988.10. When approving a county request for a waiver pursuant to this chapter, the Secretary of the Health and Welfare Agency shall ensure all of the following:

(a) Services and eligible persons served under the affected program are maintained.

(b) There is no increase in costs to the state or to clients.

(c) There is no loss of federal financial participation.

(d) The Secretary of the Health and Welfare Agency shall notify the appropriate policy committees and fiscal committees of the Legislature no later than 30 days before any waiver or waivers granted pursuant to this chapter take effect.

SEC. 38. The Legislature finds and declares that a special law pursuant to Section 881.5 Welfare and Institutions Code is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the County of Alameda. The facts constituting the special circumstances are:

Due to serious fiscal constraints, plans were under way within the County of Alameda to close one county juvenile ranch prior to the enactment of this act. However, in order to ensure an orderly transition of wards in camp placement, an additional period of time is necessary beyond the time limitations imposed by this statute.

SEC. 39. (a) In the event of a determination by the Commission on State Mandates, which is not appealed by the Director of Finance in accordance with subdivision (c), or a final judicial determination by a California court of appellate jurisdiction that any provision of this act is a state-mandated local program requiring state reimbursement to a local agency or school district within the meaning of Section 6 of Article XIII B of the California Constitution, the provisions of this act shall become inoperative 60 days following

the date on which the Commission on State Mandates adopts an estimated statewide cost of reimbursement pursuant to such a commission decision finding a state mandate, or following the date on which the first such judicial determination becomes final.

(b) This section shall be operative only in the event that the estimated statewide cost of reimbursement exceeds one million dollars ($1,000,000) per year. The estimated cost of reimbursement for purposes of this one million dollar ($1,000,000) limitation shall be determined by reference to the estimated statewide cost of the mandate adopted by the Commission on State Mandates if the estimate is made and adopted. If the commission has adopted no such report, the estimated statewide cost of reimbursement shall be determined by the Director of Finance.

(c) This act shall not become inoperative pursuant to subdivision (a) if the Director of Finance files a written Notice of Intent to Appeal with the Commission on State Mandates within 60 days of the adoption of an estimated statewide cost of reimbursement pursuant to a decision by the commission finding that any of the provisions of this act is a state-mandated local program requiring reimbursement within the meaning of Section 6 of Article XIII B of the California Constitution. The Notice of Intent to Appeal specified by this subdivision shall consist of a written notice setting forth the intention of the Director of Finance to seek judicial review of the decision of the Commission on State Mandates that is received by the commission within the time specified.

SEC. 40. (a) In the event of a final judicial determination by a California court of appellate jurisdiction that the revenues collected pursuant to Sections 6051.2 and 6201.2 of the Revenue and Taxation Code are General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B of the California Constitution or allocated local proceeds of taxes as used in paragraph (2) of subdivision (b) of Article XVI of the California Constitution, then Sections 6051.2 and 6201.2 of the Revenue and Taxation Code shall cease to be operative on the first day of the first month of the calendar quarter following notification to the State Board of Equalization by the Department of Finance of the determination.

(b) Any amendments to the Vehicle License Fee Law, in the 1991–92 Regular Session, which result in an increase in the vehicle license fee paid, shall cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by a California court of appellate jurisdiction of either of the following:

(1) The allocation of funds from the Vehicle License Account or the Growth Account from the Local Revenue Fund established during the 1991–92 Regular Session is in violation of Section 15 of Article XI of the California Constitution.

(2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to

Chapters 328 and 1594 of the Statutes of 1982.

SEC. 41. 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. 42. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 provide for the establishment of the programs required by this bill, it is necessary that this act take effect immediately.

CHAPTER 92

An act to amend Section 13302 of the Government Code, and to repeal Section 14159 of the Welfare and Institutions Code, relating to fiscal procedures, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991 Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 13302 of the Government Code is amended to read:

13302. The accounting system devised as provided in Section 13300 shall provide, with respect to the General Fund and other governmental funds, for:

(a) The accrual of expenditures as of the end of each fiscal year on the basis of payables incurred, including accrued interest on bonded indebtedness.

(b) (1) The accrual of revenues at the end of the fiscal year if the underlying transaction has occurred as of the last day of the fiscal year and the due date for the tax is within two months of the end of the period.

(2) Cash in agency trust accounts within the centralized State Treasury system which is in transit to the State Treasury, accrued interest receivable, and accounts receivable shall be accrued as of the end of each fiscal year.

(c) For the purposes of financial reporting:

(1) A payable exists when goods or services have been delivered and the state is required to pay for those goods or services, and an

encumbrance exists when a valid obligation against an appropriation has been created.

(2) All funds appropriated shall be identified as either expended, payable, encumbered (exclusive of payables), or unencumbered, as further defined by the California Fiscal Advisory Board, and the total of these shall equal the total appropriation.

SEC. 2. Section 14159 of the Welfare and Institutions Code is repealed.

SEC. 3. This act shall become operative on July 1, 1991.

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

In order for the provisions of this act to become operative beginning with the 1991–92 fiscal year and so facilitate the orderly administration of the state's fiscal affairs, this act must take effect immediately.

CHAPTER 93

An act to amend Section 4646 of the Welfare and Institutions Code, relating to developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 4646 of the Welfare and Institutions Code is amended to read:

4646. On and after January 1, 1977, an individual program plan may be developed for any person who, following intake and assessment, is found to be eligible for, and in need of, such a plan. These plans shall be completed within 60 days of the completion of the assessment.

Individual program plans shall be prepared jointly by one or more representatives of the regional center, the developmentally disabled person, and where appropriate, the person's parents, legal guardian, or conservator.

The program plan shall include the following:

(a) An assessment of the developmentally disabled person's specific capabilities and problems. The regional centers, in cooperation with the department, shall adopt an approved list of tests to be used by all regional centers in making these assessments. The test or tests used shall have been determined to be reliable and valid by acceptable statistical methods.

(b) A statement of specific, time-limited objectives for improving

the capabilities and resolving the problems of the person. These objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve program plan objectives, including identification of the provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified. The same test or tests used to measure client capabilities and problems shall be used for review and reassessment.

(e) All individual program plans shall be reviewed and modified by one or more regional center representatives and the person, and where appropriate, the person's parents, legal guardian, or conservator, as necessary, in response to the person's achievement or changing needs, and no less often than once every three years.

The state department, with the participation of regional center personnel, shall prepare a standard format for the preparation of individual program plans, which shall be used by all regional centers.

(f) If regional centers determine that review of an individual program plan is not necessary during the 1991–92 fiscal year, the regional centers shall provide written notice to the persons with developmental disabilities, and where appropriate, the person's parents, legal guardian, or conservator, of the determination. If the person with developmental disabilities or an authorized representative requests a review no later than 10 days after receipt of the regional center notice, the individual program plan shall be reviewed.

SEC. 2. (a) For the 1991–92 fiscal year, the regional center operations budget line item shall be reduced by 50 percent of the total unallocated reduction. The remainder of the unallocated reduction shall be applied to the regional center purchase of services budget line item. That application is not intended to reduce the current level of services being provided to regional center clients. Therefore, regional centers shall implement innovative, cost-effective methods of service delivery, including, but not limited to, the use of vouchers, client/parent case managers, and alternative sources of payment for services.

(b) On or before July 15, 1991, the Department of Developmental Disabilities shall provide regional centers with a variety of options for reducing operations and service costs.

(c) On or before August 1, 1991, each regional center shall develop and submit a plan to the department describing in detail how it intends to implement the unallocated reduction and achieve savings necessary to provide services to eligible clients throughout the contract term within the limitations of the funds allocated.

(d) Prior to adopting the plan, each regional center shall hold a public hearing in order to receive comment on the plan. The regional centers shall provide public notice to the community at least

seven days in advance of the public hearing. The plan submitted to the department shall emphasize, but not be limited to, (1) innovative and cost-effective methods of service delivery that include, but are not limited to, the use of vouchers; restructuring of case management services, including client/parent case managers; and alternative sources of payment for services; (2) maximizing all alternative funding sources, including federal and generic funding sources and; (3) assurances that all other operations expenditure reductions are considered before any reductions are made in nonsupervisory, case management staff.

(e) Each regional center shall implement those components of its plan authorized by statute upon approval of the department.

(f) The department shall review and approve all or portions of the regional centers' plans by September 1, 1991.

(g) Notwithstanding any other provision of law, the Director of Developmental Services may temporarily adopt, amend, or suspend regulations as necessary to allow regional centers to implement their cost reduction plans without adversely affecting client health or safety, or placing persons with disabilities in more restrictive environments. Furthermore, any such adoption, amendment, or suspension shall not authorize categorical reductions in services. It is the intent of the Legislature that any such action be deemed an emergency necessary for the immediate preservation of the public peace, health, and safety or general welfare for purposes of subdivision (b) of Section 11346 of the Government Code.

(h) Developing and implementing the plan shall be considered a contractual obligation pursuant to Section 4635 of the Welfare and Institutions Code. Accordingly, the department shall make reasonable efforts to assist regional centers in fulfilling their contractual obligations and provide technical assistance as necessary. In addition, a regional center's failure to develop and implement the plan may be considered grounds for contract termination or nonrenewal. 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 funds.

(i) Any unexpended funds in excess of the unallocated reduction amount shall be distributed within the regional center budget as follows:

(1) Twenty-five percent shall be applied to offset the operations share of the unallocated reduction.

(2) Seventy-five percent shall be used for the development and purchase of services within the community for persons currently inappropriately residing in state developmental centers who are waiting for community placement or for those persons living in the community who are at risk of being institutionalized.

(j) This section shall remain operative only during the 1991–92 fiscal year.

SEC. 3. The Legislature shall hold public hearings, at least quarterly through the 1991–92 fiscal year, to review the plans and activities of the State Department of Developmental Services and of the regional centers toward the accomplishment of the intent and goals of this act.

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

The purpose of this act is to provide budget cuts to help meet the serious anticipated deficit for the 1991–92 fiscal year. Implementing the provisions of this act require development of plans to accommodate budget reductions in developmental disabilities programs, which require time to implement. In order for this act to be operative the entire 1991–92 fiscal year and so facilitate the orderly adjustment of developmental disabilities programs, it is necessary that this act take effect immediately.

CHAPTER 94

An act to add Section 12201.03 to the Welfare and Institutions Code, relating to public social services, making an appropriation therefor and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991]

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

SECTION 1. Section 12201.03 is added to the Welfare and Institutions Code, to read:

12201.03. (a) For the 1992, 1993, 1994, 1995, and 1996 calendar years, if no cost-of-living adjustment is made pursuant to Section 12201, the payment schedules set forth in Sections 12200, 13920, and 13921, as adjusted pursuant to Section 12201, shall include the pass along of any cost-of-living increases in federal benefits under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code.

(b) Notwithstanding paragraph (2) of subdivision (d) of Section 12201, any adjustments made pursuant to this section to reflect the pass along of federal cost-of-living adjustments shall be included in the base amounts for purposes of determining cost-of-living adjustments made pursuant to Section 12201.

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 timely provide benefits under the State Supplementary Program for the Aged, Blind, and Disabled, it is necessary that this act take effect immediately.

CHAPTER 95

An act to amend Sections 14000, 14016.5, 14016.6, 14087.55, 14087.56, 14089, 14089.6, and 14450 of, to add Sections 14016.7, 14089.7, 14407.1, and 14407.6 to, and to amend the heading of Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 14000 of the Welfare and Institutions Code is amended to read:

14000. The purpose of this chapter is to afford to qualifying individuals health care and related remedial or preventive services, including related social services which are necessary for those receiving health care under this chapter.

The intent of the Legislature is to provide, to the extent practicable, through the provisions of this chapter, for health care for those aged and other persons, including family persons who lack sufficient annual income to meet the costs of health care, and whose other assets are so limited that their application toward the costs of such care would jeopardize the person or family's future minimum self-maintenance and security. It is intended that whenever possible and feasible:

(a) The means employed shall allow, to the extent practicable, eligible persons to secure health care in the same manner employed by the public generally, and without discrimination or segregation based purely on their economic disability. The means employed shall include an emphasis on efforts to arrange and encourage access to health care through enrollment in organized, managed care plans of the type available to the general public.

(b) The benefits available under this chapter shall not duplicate those provided under other federal or state laws or under other contractual or legal entitlements of the person or persons receiving them.

(c) In the administration of this chapter and in establishing the means to be used to provide access to health care to persons eligible under this chapter, the department shall emphasize and take advantage of both the efficient organization and ready accessibility

and availability of health care facilities and resources through enrollment in managed health care plans and new and innovative fee-for-service managed health care plan approaches to the delivery of health care services.

SEC. 2. Section 14016.5 of the Welfare and Institutions Code is amended to read:

14016.5. (a) At the time of determining or redetermining the eligibility of a Medi-Cal or aid to families with dependent children (AFDC) applicant or beneficiary who resides in an area served by a managed health care plan or pilot program in which beneficiaries may enroll, the county shall ensure that each applicant or beneficiary personally attends a presentation at which the applicant or beneficiary is informed of the managed care and fee-for-service options available regarding methods of receiving Medi-Cal benefits.

(b) No later than 30 days following the date a Medi-Cal or AFDC beneficiary or applicant is referred to the presentation described in subdivision (a), the beneficiary or applicant shall indicate his or her choice in writing, as a condition of coverage for Medi-Cal benefits, of either of the following health care options:

(1) To obtain benefits by receiving a monthly Medi-Cal card, which may be used to obtain services from individual providers, that the beneficiary would locate, who choose to provide services to Medi-Cal beneficiaries. Beneficiaries or eligible applicants shall, as a condition for electing this option, identify the provider with whom they have a doctor-patient relationship and from whom they will receive Medi-Cal services.

(2) To obtain benefits by enrolling in a prepaid managed care health plan, pilot program, or fee-for-service case management provider contracting with the department that has agreed to make Medi-Cal services readily available to enrolled Medi-Cal beneficiaries.

(c) (1) Commencing January 1, 1994, a Medi-Cal or AFDC beneficiary or eligible applicant who does not make a choice, or who does not certify that he or she has an established relationship with a primary care provider shall be enrolled in an appropriate management care plan, pilot project, or fee-for-service case management provider providing service within the area in which the beneficiary resides.

(2) If it is not possible to enroll the beneficiary under a Medi-Cal managed care plan or pilot project or a fee-for-service case management provider because of a lack of capacity or availability of participating contractors, the beneficiary shall be provided with a monthly Medi-Cal card and informed about fee-for-service primary care providers who do all of the following:

(A) The providers agree to accept Medi-Cal patients.

(B) The providers provide information about the provider's willingness to accept Medi-Cal patients as described in Section 14016.6.

(C) The providers provide services within the area in which the

beneficiary resides.

(c) (1) The managed care plan shall have a valid Medi-Cal contract, adequate capacity, and appropriate staffing to provide health care services to the beneficiary.

(2) The department shall, by regulation establish standards for all of the following:

(A) The maximum distances a beneficiary is required to travel to obtain primary care services from the managed care plan, fee-for-service managed care provider, or pilot project in which the beneficiary is enrolled.

(B) The conditions under which a primary care service site shall be accessible by public transportation.

(C) The conditions under which a managed care plan, fee-for-service managed care provider, or pilot project shall provide nonmedical transportation to a primary care service site.

(3) In developing the standards required by paragraph (2), the department shall take into account, on a geographic basis, the means of transportation used and distances typically traveled by Medi-Cal beneficiaries to obtain fee-for-service primary care services.

(d) To the extent possible, the arrangements for carrying out subdivision (c) shall provide for the equitable distribution of Medi-Cal beneficiaries among participating managed care plans, fee-for-service case management providers, and pilot projects.

(e) Until December 31, 1993, if a Medi-Cal beneficiary or applicant does not make a choice or does not certify that he or she has an established relationship with a primary care provider, the person shall be provided with a monthly Medi-Cal card.

(f) (1) The department shall ensure that Medi-Cal beneficiaries eligible under Title XVI of the Social Security Act are provided with information about options available regarding methods of receiving Medi-Cal benefits as described in subdivision (b).

(2) The director shall waive the requirements of subdivisions (b) and (c) until a means is established to directly provide the presentation described in subdivision (a) to beneficiaries who are eligible for the federal Supplemental Security Income for the Aged, Blind, and Disabled Program (Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code).

(B) The requirements of subdivisions (b) and (c) shall not apply at any time to beneficiaries whose eligibility under the Supplemental Security Income program is established before January 1, 1994.

(g) In areas where there is no prepaid managed health care plan or pilot program which has contracted with the department to provide services to Medi-Cal beneficiaries, no explicit choice need be made, and the beneficiary or eligible applicant shall receive a monthly Medi-Cal card.

(h) The following definitions contained in this subdivision shall control the construction of this section, unless the context requires otherwise:

(1) "Applicant," "beneficiary," and "eligible applicant," in the

case of a family group, means any person with legal authority to make a choice on behalf of dependent family members.

(2) "Fee-for-service case management provider" means a provider enrolled and certified to participate in the Medi-Cal fee-for-service case management program to be developed by the department with the assistance of and in cooperation with California physician providers and other interested provider groups.

(3) "Managed health care plan" and "managed care plan" mean a person or entity operating under a Medi-Cal contract with the department under this chapter or Chapter 8 (commencing with Section 14200) to provide, or arrange for, health care services for Medi-Cal beneficiaries as an alternative to the Medi-Cal fee-for-service program that has a contractual responsibility to manage health care provided to Medi-Cal beneficiaries covered by the contract.

SEC. 3. Section 14016.6 of the Welfare and Institutions Code is amended to read:

14016.6. The State Department of Health Services shall develop a program to implement Section 14016.5 and to provide information and assistance to enable Medi-Cal beneficiaries to understand and successfully use the services of the Medi-Cal managed care plans in which they enroll. The program shall include, but not be limited to, the following components:

(a) (1) Development of a method to inform beneficiaries and applicants of all of the following:

(A) Their choices for receiving Medi-Cal benefits including the use of fee-for-service sector managed health care plans, or pilot programs.

(B) The availability of staff and information resources to Medi-Cal managed health care plan enrollees described in subdivision (f).

(2) (A) Marketing and informational materials including printed materials, films, and exhibits, to be provided to Medi-Cal beneficiaries and applicants when choosing methods of receiving health care benefits.

(B) The department shall not be responsible for the costs of developing material required by subparagraph (A).

(C) (i) The department may prescribe the format and edit the informational materials for factual accuracy, objectivity and comprehensibility.

(ii) The department shall use the edited materials in informing beneficiaries and applicants of their choices for receiving Medi-Cal benefits.

(b) Provision of information that is necessary to implement this program in a manner that fairly and objectively explains to beneficiaries and applicants their choices for methods of receiving Medi-Cal benefits, including information prepared by the department emphasizing the benefits and limitations to beneficiaries of enrolling in managed health care plans and pilot projects as opposed to the fee-for-service system.

(c) Provision of information about providers who will provide services to Medi-Cal beneficiaries. This may be information about provider referral services of a local provider professional organization. The information shall be made available to Medi-Cal beneficiaries and applicants at the same time the beneficiary or applicant is being informed of the options available for receiving care.

(d) Training of specialized county employees to carry out the program.

(e) Monitoring the implementation of the program in those county welfare offices where choices are made available in order to assure that beneficiaries and applicants may make a well-informed choice, without duress.

(f) Staff and information resources dedicated to directly assist Medi-Cal managed health care plan enrollees to understand how to effectively use the services of, and resolve problems or complaints involving, their managed health care plans.

(g) The responsibilities outlined in this section shall, at the option of the department, be carried out by a specially trained county or state employee or by an independent contractor paid by the department. If a county sponsored prepaid health plan or pilot program is offered, the responsibilities outlined in this section shall be carried out either by a specially trained state employee or by an independent contractor paid by the department.

(h) The department shall adopt any regulations as are necessary to ensure that the informing of beneficiaries of their health care options is a part of the eligibility determination process.

SEC. 4. Section 14016.7 is added to the Welfare and Institutions Code, to read:

14016.7. (a) Managed care contracts entered into by the department under the act adding this section shall include all of the following:

(1) Contractor requirements concerning eligibility and coverage verification.

(2) Utilization controls.

(3) Claims processing.

(b) The contract requirements shall include all of the following:

(1) Standards for prompt response to provider requests for information.

(2) Twenty-four hour response to emergency service authorization requests.

(3) Use of commonly accepted billing forms.

SEC. 5. Section 14087.55 of the Welfare and Institutions Code is amended to read:

14087.55. (a) The department shall enter into contracts with counties under this article, and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

(b) In implementing this article, the department may enter into contracts for the provision of essential administrative and other

services.

(c) Contracts under this article may be on a nonbid basis and shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

SEC. 6. Section 14087.56 of the Welfare and Institutions Code is amended to read:

14087.56. (a) The Health Facilities Financing Authority may, pursuant to Chapter 7.2 (commencing with Section 15430) of Division 3 of Title 2 of the Government Code, grant up to four hundred thousand dollars ($400,000) to each participating county to match other moneys, including loans, received by the county if needed for the costs of developmental activities approved by the department and the California Medical Assistance Commission.

(b) Funds may be provided to the county agencies selected as contractors under this article to assist in the design, development and installation of necessary program components. The award of these funds shall be based on criteria established by the department.

SEC. 7. The heading of Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is amended to read:

Article 2.91. Geographic Managed Care Pilot Project

SEC. 8. Section 14089 of the Welfare and Institutions Code is amended to read:

14089. (a) The purpose of this article is to provide a comprehensive program of managed health care plan services to Medi-Cal recipients residing in clearly defined geographical areas. It is, further, the purpose of this article to create maximum accessibility to health care services by permitting Medi-Cal recipients the option of choosing from among two or more managed health care plans or fee-for-service managed case arrangements, including, but not limited to, health maintenance organizations, prepaid health plans, primary care case management plans, independent practice associations, various insurance coverage, organized county health systems, private foundations and university medical center systems, for the provision of preventive managed health care plan services.

(b) The negotiator may seek proposals and then shall contract based on relative costs, extent of coverage offered, quality of health services to be provided, financial stability of the health care plan or carrier, recipient access to services, cost-containment strategies, peer and community participation in quality control, emphasis on preventive and managed health care services and the ability of the health plan to meet all requirements for both of the following:

(1) Certification, where legally required, by the Commissioner of Corporations and the Insurance Commissioner.

(2) Compliance with all of the following:

(A) The health plan shall satisfy all applicable state and federal legal requirements for participation as a Medi-Cal managed care contractor.

(B) The health plan shall meet any standards set forth in any regulations promulgated by the department for the implementation of this article.

(C) The health plan receives the approval of the department to participate in the pilot project under this article.

(c) (1) (A) The proposals shall be for the provision of preventive and managed health care services to specified eligible populations on a capitated, prepaid or postpayment basis.

(B) Enrollment in a Medi-Cal managed health care plan under this article shall be voluntary for beneficiaries eligible for the federal Supplemental Security Income for the Aged, Blind, and Disabled Program (Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code).

(2) The cost of each program established under this section shall not exceed the total amount which the department estimates it would pay for all services and requirements within the same geographic area under the fee-for-service Medi-Cal program.

(d) The department shall enter into contracts pursuant to this article, and shall be bound by the rates, terms, and conditions negotiated by the negotiator.

(e) An eligible beneficiary shall be entitled to enroll in any health care plan contracted for pursuant to this article that is in effect for the geographic area in which he or she resides. Enrollment shall be for a minimum of six months. Contracts entered into pursuant to this article shall be for at least one but no more than three years. The director shall make available to recipients information summarizing the benefits and limitations of each health care plan available pursuant to this section in the geographic area in which the recipient resides.

(f) A participating county may include within the plan or plans providing coverage pursuant to this section, employees of county government, and others who reside in the geographic area and who depend upon county funds for all or part of their health care costs.

(g) (1) The negotiator and the department shall establish pilot projects in not more than two counties to test the cost-effectiveness of delivering benefits as defined in subdivisions (a) through (f).

(2) The pilot projects required by paragraph (1) shall include not more than 10 percent of the statewide total of Medi-Cal beneficiaries who are eligible for, or are categorically linked to, the Aid to Families with Dependent Children Program (Chapter 2 (commencing with Section 11200) of Part 2).

(h) The California Medical Assistance Commission shall evaluate the cost-effectiveness of these pilot projects after one year of implementation. Pursuant to this evaluation the commission may either terminate or retain the existing pilot projects.

(i) Funds may be provided to prospective contractors to assist in

the design, development, and installation of appropriate programs. The award of these funds shall be based on criteria established by the department.

(j) In implementing this article, the department may enter into contracts for the provision of essential administrative and other services. Contracts entered into under this subdivision may be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. These contracts shall have no force and effect unless approved by the Department of Finance.

SEC. 9. Section 14089.6 of the Welfare and Institutions Code is amended to read:

14089.6. Current prepaid health plan and primary care case management contracts entered into by the department pursuant to Chapter 7 (commencing with Section 14088) and Chapter 8 (commencing with Section 14200) shall not be terminated solely due to the implementation of this article in areas served by prepaid health plans and primary care case management contractors. Upon expiration of these contracts, the department shall enter into good faith negotiations for one renewal of these contracts. These plans may continue to serve their Medi-Cal enrollees and to enroll new beneficiaries. Upon expiration or final termination of these renewal contracts and subject to compliance with all applicable requirements prepaid health plan and primary care case management contractors in the areas shall be allowed the opportunity to participate as new contractors under this article.

SEC. 10. Section 14089.7 is added to the Welfare and Institutions Code, to read:

14089.7. The department shall adopt regulations implementing this article as emergency regulations. For purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

SEC. 11. Section 14407.1 is added to the Welfare and Institutions Code, to read:

14407.1. (a) A contractor that has entered into a contract with the department under this chapter, or under any other Medi-Cal managed care contracting authority, may offer nonmonetary incentives to promote good health practices by Medi-Cal enrollees.

(b) No Medi-Cal managed care contractor may offer any incentive to promote good health practices by Medi-Cal enrollees prior to written approval by the department.

(c) If a contractor is a publicly operated entity, the offering of a department-approved, nonmonetary incentive to promote good health practices by enrollees shall not constitute a gift of public funds.

(d) Violations of this section shall be subject to the requirements and penalties set forth in Sections 14408 and 14409, and any

regulations adopted by the department pursuant to this article.

SEC. 12. Section 14407.6 is added to the Welfare and Institutions Code, to read:

14407.6. (a) Notwithstanding Section 14407.5, the department shall, to the extent permitted by federal law or under federal waivers which the department may obtain, establish a minimum enrollment period for Medi-Cal beneficiaries enrolling in managed care plans under any of the following:

(1) This chapter.

(2) Any of the following provisions of Chapter 7 (commencing with Section 14000):

(A) Article 2.7 (commencing with Section 14087.3).

(B) Article 2.9 (commencing with Section 14088).

(C) Article 2.91 (commencing with Section 14089).

(b) (1) Except as otherwise required by federal law, disenrollment during the minimum enrollment period shall only be for good cause.

(2) For purposes of this section, the meaning of "good cause" shall be as defined in subdivision (b) of Section 14407.8, and shall include "good cause" as defined by federal laws or regulations governing Medi-Cal managed care contracting.

SEC. 13. Section 14450 of the Welfare and Institutions Code is amended to read:

14450. (a) No contract between the department and a prepaid health plan shall be approved or renewed unless the providers and the facilities of the prepaid health plan meet the Medi-Cal program standards for participation as established by the director. In addition, a prepaid health plan shall meet the standards required pursuant to the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), or the provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate, standards specifically required by federal law, and the following requirements:

(1) Each prepaid health plan shall establish a grievance procedure under which enrollees may submit their grievances. The procedure shall be approved by the department prior to the approval of the contract. The department shall establish standards for the procedures to insure adequate consideration and rectification of enrollee grievances. A prepaid health plan shall make a finding of fact in the case of each grievance processed, a copy of which shall be transmitted to the enrollee. If the enrollee has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 shall be available to resolve all grievances regarding care and administration by the prepaid health plan. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the prepaid health plan. Any changes in a proposed health plan's grievance procedure must be approved by the department before the changes

take effect.

(2) (A) Medi-Cal enrollees shall have the same responsibilities and shall be entitled to the same rights as other enrollees with regard to any requirements for arbitration as a condition of membership in a health plan.

(B) Arbitration requirements shall be clearly disclosed in all of the contractor's Medi-Cal marketing presentations, materials and brochures, enrollment agreements, evidence of coverage, and disclosure forms.

(3) The prepaid health plan shall provide the director, for his or her approval, a plan for marketing its services to Medi-Cal beneficiaries which relates the proposed service to the need for services, and the size of the potential population to be served in the proposed service area.

(4) The prepaid health plan shall demonstrate to the department that it has adequate financial resources, administrative abilities and soundness of program design to carry out its contractual obligations.

(b) The requirements of this section shall apply to all managed care plan contracts entered into under any of the following:

(1) The act that added this subdivision.

(2) Any of the following provisions of Chapter 7 (commencing with Section 14000).

(A) Article 2.7 (commencing with Section 14087.3).

(B) Article 2.9 (commencing with Section 14088).

(C) Article 2.91 (commencing with Section 14490).

(3) Article 7 of Chapter 8 (commencing with Section 14490).

SEC. 14. (a) The State Department of Health Services may make reimbursements pursuant to contracts authorized by this act for purposes of Chapter 7 (commencing with with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code on a prepaid or postpayment basis.

(b) Designation of a contract as prepaid shall not preclude the department from negotiating contract arrangements that provide for reimbursement to a contractor on a postpayment basis.

SEC. 15. The cost incurred for the managed care program established by this act shall be offset through savings in Medi-Cal local assistance and state operations budgets.

SEC. 16. The following amounts are hereby transferred between items of the Budget Act of 1991 for the implementation of the managed care program established by this act:

(a) Five million two hundred forty-four thousand dollars ($5,244,000) of General Fund moneys from Item 4260-101-001 to Item 4260-001-001.

(b) Five million two hundred forty-four thousand dollars ($5,244,000) of Federal Trust Fund moneys from Item 4260-101-890 to Item 4260-001-890.

SEC. 17. 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.

Moreover, 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.

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 facilitate the orderly implementation of the managed care proposal so as to ensure efficient operation of the related health care services delivery system, it is necessary that this act take effect imme immediately.

CHAPTER 96

An act to amend Section 12303.5 of, to amend, repeal, and add Section 12304 of, and to amend and repeal Section 12303.4 of, the Welfare and Institutions Code, relating to in-home supportive services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991 Filed with Secretary of State June 30, 1991.]

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

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

(a) The In-Home Supportive Services program is the backbone of the state's long-term care policy, helping persons to remain independent and to avoid institutionalization.

(b) Providers of in-home supportive services generally earn only the minimum wage and receive few, if any, benefits.

(c) Provider turnover in the In-Home Supportive Services program is high, with over one-half of the workforce leaving the In-Home Supportive Services program in a year or less.

(d) The high turnover in the In-Home Supportive Services program disrupts the continuity of care for older persons and persons with disabilities, who rely on the In-Home Supportive Services program to remain safely in their homes.

(e) Many individual providers of in-home supportive services have remained with the In-Home Supportive Services program for many years and deserve to be compensated more adequately.

SEC. 2. It is the intent of the Legislature to enhance provider recruitment through incentives such as wage level increases, so that the growing population of seniors and persons with disabilities will be able to draw on an adequate provider workforce so that they are able to receive the necessary services to enable them to remain safely in home.

SEC. 3. By the enactment of this act, it is the intent of the Legislature to improve the continuity of care for recipients of in-home supportive services.

SEC. 4. Section 12303.4 of the Welfare and Institutions Code is amended to read:

12303.4. (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 1990, 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.

(c) This section shall remain operative only until July 1, 1992, 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 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.

(g) This section shall not be operative until July 1, 1992.

SEC. 6. Section 12304 of the Welfare and Institutions Code is amended to read:

12304. (a) An individual who is eligible for services subject to the maximum amount specified in subdivision (b) of Section 12303.4 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 an amount to reimburse providers for the maximum amount of hours specified in subdivision (b) of Section 12303.4, 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.

(b) In no event shall the maximum total cost for services and advance cash payment for one individual recipient under subdivision (b) of Section 12303.4 and subdivision (a) exceed an amount to reimburse providers for the maximum hours specified in subdivision (b) of Section 12303.4.

(c) 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.

(d) For purposes of subdivision (b) of Section 12303.4, a recipient who is eligible for services subject to the maximum amount specified in subdivision (b) of Section 12303.4 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.

(e) This section shall remain operative only until July 1, 1992, 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 12304 is added to the Welfare and Institutions Code, 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.

(f) This section shall become operative July 1, 1992. No reimbursement is provided in this act pursuant to Section 6 of Article XIII B of the California Constitution because funding will be provided in the annual Budget Act to cover any costs incurred in carrying on any program and performing any service required to be carried on or performed by this act.

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

In order to maintain in-home supportive services to severely impaired person at the current level of service, it is necessary that this act take effect immediately.

CHAPTER 97

An act to amend Sections 11055.5, 11201, 11201.5, 11450, 11452, 11453, 11461, 11462, 11465, 12200, 12201, 13920, 13921, 14005.12, 15200.95, and 18902.5 of, to amend the heading of Article 3.1 (commencing with Section 11315) of Chapter 2 of Part 3 of Division 9 of, to add Sections 11450.4, 11450.9, and 11486 to, to repeal Section 11315 of, and to repeal and add Sections 15204.6 and 18906.7 of, the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State June 30, 1991.]

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

SECTION 1. Section 11055.5 of the Welfare and Institutions Code is amended to read:

11055.5. (a) In the administration of the Aid to Families with Dependent Children program, counties may conduct an early fraud prevention and detection program pursuant to this section.

(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 in that 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 (6), 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. 2. Section 11201 of the Welfare and Institutions Code is amended to read:

11201. For the purposes of this chapter, the following shall apply:

(a) "Unemployed parent" means a natural or adoptive parent with whom the child is living.

(b) A child shall be considered to be deprived of parental support or care due to the unemployment of his or her parent or parents when the parent qualifies as an unemployed parent in accordance with the standards for unemployed parents as defined by federal law.

SEC. 3. Section 11201.5 of the Welfare and Institutions Code is amended to read:

11201.5. (a) The department shall conduct a statewide demonstration program in order to determine whether the

definition of "unemployed parent" specified in Section 11201 discourages primary wage earners receiving assistance under this chapter from accepting employment offered to them.

(b) The department shall seek a federal waiver as necessary to implement the statewide demonstration program. The implementation of the program is contingent upon receipt of the necessary federal waiver.

The waiver shall provide that for recipients of aid under this chapter, "unemployed parent" means the principal earner, whose wages, after applicable earned income disregards, is less than the minimum basic standard of adequate care for the family size. This definition applies only to those families receiving Aid to Families with Dependent Children-Unemployed Parent (AFDC-U) assistance whose total applicable family income meets the gross and net income eligibility standards established by regulation.

(c) The demonstration program provided for in this section shall provide for a statewide project to demonstrate whether this revised definition of "unemployed parent" would do either of the following:

(1) Increase the number of principal earners accepting employment.

(2) Reduce the average level of grant payments being made in the AFDC-U program.

The duration of the demonstration program shall be for two years from the date of implementation by the counties.

(d) The department shall institute, as soon as possible, upon receipt of the federal waiver, the demonstration program described in subdivision (c).

For purposes of this demonstration program, the AFDC-U applicant shall not have quit a job without good cause within the 30 days immediately prior to the beginning date of aid. If the AFDC-U applicant quits a job without good cause within this 30-day period, the entire family shall be ineligible for aid under this chapter for 30 days from the date the applicant quit his or her job.

An AFDC-U recipient shall not refuse an offer of employment without good cause. Good cause does not exist when the wage, less applicable earned income disregards, would make the family financially ineligible for aid under this chapter.

The demonstration program established pursuant to this section shall be in addition to the refugee demonstration programs provided for during the 1983–84 Regular Session of the Legislature.

(e) Any savings to counties in AFDC-U grant costs obtained due to the implementation of the demonstration program shall be applied toward the nonfederal administrative costs of administering the AFDC-U program.

(f) The department shall report to the Legislature the results of the demonstration program.

(g) The State Department of Social Services shall seek federal approval to extend indefinitely the thirty dollars ($30) and ⅓ earned income disregard for the Aid to Families with Dependent Children

program under Section 602(a)(8)(A)(iv) of Title 42 of the United States Code. By July 1, 1992, the department shall report to the Legislature regarding whether or not this approval is obtained.

SEC. 3.5. Article 2.2 (commencing with Section 11271) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.2. Restricted Payments

11271. For purposes of this article, the following definitions shall apply:

(a) "Restricted payment" means payment of homeless assistance benefits in the form of either of the following:

(1) A vendor payment to the provider of shelter or utilities or both.

(2) A two-party payment for rent or utilities, or both.

(b) "Recipient" means a recipient of aid pursuant to subdivision (a) of Section 11450.

(c) "Two-party payment" means a check which is drawn jointly to the order of the recipient and the service provider and is negotiable only upon the endorsement of both parties.

(d) "Vendor payment" means a voucher, or check drawn to the order of the service provider.

(e) "Homeless assistance benefits" means benefits paid pursuant to paragraph (2) of subdivision (f) of Section 11450 and Section 11450.4.

11271.5. (a) Restricted payments for homeless assistance benefits shall be provided by a county welfare department to a recipient, if at least one of the following criteria is met:

(1) The recipient has mismanaged AFDC funds, as defined in Section 11273 and in accordance with federal law.

(2) The recipient has voluntarily requested restricted payments. The request shall be in writing from the recipient and shall be recorded and retained in the case file by the county welfare department.

(b) At the option of the county welfare department, restricted payments made pursuant to subdivision (a) may be made for utilities as well as shelter.

11272. When restricted payments are provided to a recipient, the county welfare department shall do all of the following:

(a) Issue the vendor or two-party payment by one of the following methods, at the discretion of the county:

(1) Mail or delivery to the recipient for delivery to the service provider.

(2) Mail or delivery directly to the service provider.

(b) Do the following in order to develop greater ability on the part of the recipient to manage funds in such a manner as to protect the welfare of the family:

(1) Provide each family with informational materials designed to

improve the recipient's ability to manage funds.

(2) Refer the family to appropriate services where these exist.

(c) Provide for timely and correct vendor payments and two-party payments.

11273. (a) Homeless assistance provided pursuant to paragraph (2) of subdivision (f) of Section 11450 shall be subject to restricted payments consistent with federal regulations when the county welfare department has made a determination that mismanagement exists. Instances where mismanagement exists include, but are not limited to, the following situations.

(1) Nonpayment of rent unless nonpayment is due to:

(i) A rent increase which results in the recipient's share of the rent being over 80 percent of the maximum aid payable pursuant to Section 11450.

(ii) Domestic violence by a spouse, partner, or roommate.

(iii) Reasonable exercise of a tenant's right to withhold rent for cause.

(2) The homeless assistance payment was not used for shelter.

(3) The recipient or applicant fails to provide verification that homeless assistance payments were used for shelter.

(b) To the extent allowed by federal law, the department is authorized to issue regulations defining additional situations when mismanagement may exist.

SEC. 4. The heading of Article 3.1 (commencing with Section 11315) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code is amended to read:

Article 3.1. Employment-Related Services

SEC. 5. Section 11315 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) (1) Aid shall be paid 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. In determining the amount of aid paid, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1 shall be deducted from the sum specified in Section 11452, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2) of subdivision (a) of Section 11450 11496. In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2) of subdivision (a) of Section 11450, plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1	$ 326
2	535
3	663
4	788
5	899
6	1,010
7	1,109
8	1,209
9	1,306
10 or more	1,403

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, 1991–92, 1992–93, 1993–94, 1994–95, and 1995–96 fiscal years, nor shall that amount be included in the base for calculating any cost-of-living increases for any fiscal year thereafter. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(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) (i) A nonrecurring special need of thirty dollars ($30) a day shall be available to families for the costs of temporary shelter, subject to the requirements of this paragraph. 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.

(ii) This special need shall be granted or denied immediately upon the family's application for homeless assistance, and benefits shall be available for up to three working days. The county welfare department shall verify the family's homelessness within the first three working days and if the family meets the criteria of questionable homelessness established by the department, the county welfare department shall refer the family to its early fraud prevention and detection unit, if the county has such a unit, for assistance in the verification of homelessness within this period.

(iii) After homelessness has been verified, the three-day limit shall be extended for a period of time which, when added to the initial benefits provided, does not exceed a total of 16 calendar days. This extension of benefits shall be done in increments of one week and shall be based upon searching for permanent housing which shall be documented on a housing search form; good cause; or other circumstances defined by the department. Documentation of housing search shall be required for the initial extension of benefits beyond the three-day limit and on a weekly basis thereafter as long as the family is receiving temporary shelter benefits. 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 while receiving temporary shelter benefits.

(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 this paragraph shall be limited to once every 24 months. The county welfare department shall report to the department, through a statewide homeless assistance payment indicator system, necessary data, as requested by the department, regarding all recipients of aid under this paragraph.

(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 24-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.

(I) No payment shall be made pursuant to this paragraph unless the provider of housing is a commercial establishment, shelter, or person in the business of renting properties who has a history of renting properties.

(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. 7. Section 11450.4 is added to the Welfare and Institutions Code, to read:

11450.4. (a) It is the intent of the Legislature to establish an emergency assistance for needy families program to serve the shelter needs of homeless families apparently eligible for aid pursuant to subdivision (a) of Section 11450. To this end, the State Department of Social Services shall conduct negotiations with the United States Department of Health and Human Services on establishing an emergency assistance program to address the temporary and permanent shelter needs of homeless families currently served under paragraph (2) of subdivision (f) of Section 11450.

(b) No later than January 1, 1994, the department shall report to the appropriate policy and fiscal committees of the Legislature regarding the results of its negotiations. If any revisions to the state plan have been submitted for federal approval, a copy of the revised state plan shall also be made available to the appropriate policy and fiscal committees of the Legislature.

(c) (1) Upon receiving federal approval for an emergency assistance program and prior to implementation, the department shall notify the appropriate policy and fiscal committees of the Legislature of its intent to implement the emergency assistance program. The notification shall identify those portions of paragraph (2) of subdivision (f) of Section 11450 which are intended to be superseded by the emergency assistance program.

(2) Except as provided in this subdivision, the emergency assistance program for which notification is submitted to the Legislature pursuant to paragraph (1) shall become effective the first day after 120 calendar days of continuous session of the Legislature after the date on which the notification is transmitted, or at a later date as may be indicated in the notification, unless, prior to the end of the 120-calendar-day period, either house of the Legislature adopts by a majority vote of the duly elected and qualified members thereof a resolution indicating disapproval of the proposed emergency assistance program.

(3) As used in this section, "120 calendar days of continuous session" shall be deemed broken only by an adjournment sine die, but in computing the 120 calendar days for the purposes of this section, days on which either house is not in session because of a recess of more than 10 days shall not be included.

(d) Upon implementation of the emergency assistance program, the department shall cease implementation of those portions of paragraph (2) of subdivision (f) of Section 11450 which are superseded by the emergency assistance program.

SEC. 8. Section 11450.9 is added to the Welfare and Institutions Code, to read:

11450.9. (a) (1) The department shall designate as energy assistance payments any increase in the maximum aid payments provided pursuant to Section 11450 made on or after the first day of

the first session of the Legislature which is convened after the effective date of this section.

(2) Increases subject to paragraph (1) shall include any increase provided pursuant to Sections 11453 and 11453.05.

(b) The designation required by subdivision (a) shall be made to the extent allowed by federal law to increase food stamp allotments to recipients of assistance under this chapter.

(c) The department shall notify the federal government of the designation made pursuant to subdivision (a) no later than 60 days after it has submitted a report on the study required by subdivision (d).

(d) (1) (A) The department shall conduct a study of home energy costs of low-income households.

(B) The Department of Economic Opportunity shall cooperate with the department in conducting the study required by subparagraph (A).

(2) (A) On or before March 1, 1992, the department shall report to the Legislature on the study required by paragraph (1).

(B) The report required by subparagraph (A) shall also do all of the following:

(i) Identify energy assistance programs operated by the Department of Economic Opportunity that satisfy the requirements of Section 273.9(c)(11) of Title 7 of the Code of Federal Regulations.

(ii) Identify any options needed to secure federal approval for modifying the programs identified pursuant to subparagraph (A).

(iii) Assess the feasibility of designating a portion of the maximum aid payments under this chapter in effect on the effective date of this section as energy assistance payments.

(e) It is the intent of the Legislature that the department designate the maximum amount of aid payments made under this chapter as energy assistance payments to the extent allowed under federal law to increase food stamp allotments to recipients of assistance under this chapter.

SEC. 9. 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	$ 341
2	560
3	694
4	824
5	940
6	1,057
7	1,160
8	1,265
9	1,371
10	1,489

plus fourteen dollars ($14) for each additional needy person.

(3) (A) No adjustment shall be made under this section for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this subparagraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(B) Any cost-of-living adjustment under this section for the 1991–92 fiscal year and any subsequent fiscal year pursuant to Section 11453 shall not include any adjustment to reflect increases for the cost of living for the 1990–91 and 1991–92 fiscal years.

(C) For the 1992–93, 1993–94, 1994–95, and 1995–96 fiscal years, a cost-of-living adjustment equivalent to 70 percent of the amount calculated pursuant to subdivision (a) of Section 11453 shall be made under this section. This adjustment, by reducing the cost-of-living adjustment that would otherwise have been made, shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(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. 10. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), 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. These adjustments shall become effective July 1 of each year. 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	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(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 to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, and 1995–96 fiscal years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(d) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the cost of living was suspended pursuant to subdivision (c).

SEC. 10.5. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0–4	$ 294
5–8	319
9–11	340
12–14	378
15–20	412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county which did not increase the basic rate by 12 percent on January 1, 1990, shall do all of the

following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A) by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(d) (1) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to the methodology described in Section 11453, subject to the availability of funds.

(2) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county's adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, "specialized care increment" means an approved amount paid with state participation on behalf of an AFDC-FC child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. On the effective date of this section, the department shall continue and maintain the current ratesetting system for specialized care.

(2) Any county that, as of the effective date of this section, has in effect specialized care increments that have been approved by the department, shall continue to receive state participation for those payments.

(3) Any county that, as of the effective date of this section, has in effect specialized care increments that exceed the amounts that have been approved by the department, shall continue to receive the same level of state participation as it received on the effective date of this section.

(4) Except for subparagraph (A), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall receive state participation for any increases in a specialized care increment which exceeds the adjustments made in accordance with this methodology.

(A) Notwithstanding subdivision (f) of Section 11460, it is the intent of the Legislature that for the 1992–93 fiscal year , an amount equal to 5 percent of the State Treasury appropriation for family homes be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is also the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(5) The department shall report, in consultation with counties, the State Foster Parents Association, and representatives of other foster care providers, to the Legislature by December 31, 1990, on the department's specialized care ratesetting system regarding its effectiveness in meeting the special needs of children in foster care. At a minimum, the department's report shall address the following:

(A) A description of the current specialized care system and its strengths and weaknesses.

(B) The characteristics of children receiving specialized care and the cost of that care.

(C) The types of specialized care which are needed by children but which are not readily available for these children; the cost of providing that care; and the current placements of children with special needs in the absence of that care.

(D) The extent to which specialized foster family care can provide an alternative to group home care and the costs and savings which would be associated with greater emphasis on specialized family foster care.

(E) Recommendations on needed improvements to specialized family foster care.

(F) (1) As used in this section, "clothing allowance" means the amount paid with state participation in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms.

(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.

(3) Beginning January 1, 1990, clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall be reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.

SEC. 11. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) Effective July 1, 1990, foster care providers licensed as

group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, the single rate established for each RCL, and the rate floor for each RCL.

(e) The standardized schedule of rates shall be phased in commencing July 1, 1990.

(1) In order to phase in the standardized schedule of rates, a "rate floor" has been established for each RCL.

(2) The rate floor for fiscal year 1990–91 shall be 85 percent of the standard rate for each RCL. The rate floor shall be increased to 92.5 percent of the standard rate for fiscal year 1991–92 for each RCL, and shall be equal to the standard rate for each RCL for fiscal year 1992–93 and beyond.

(f) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) For a group home program for which the department established a rate effective prior to June 30, 1990, that took into account the program's historical costs, the department shall establish the rate for fiscal year 1990 –91 by determining the RCL on a retrospective basis, according to the level of care and services actually provided between July 1 and December 31, 1989, or between July 1, 1989, and March 31, 1990.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall

develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(g) (1) The standardized schedule of rates for fiscal year 1990–91 is:

Rate Classification Level	Point Ranges	FY 1990–91 Standard Rate	FY 1990–91 Rate Floor (85%)
1	Under 60	$1,183	$1,006
2	60– 89	1,478	1,256
3	90–119	1,773	1,507
4	120–149	2,067	1,757
5	150–179	2,360	2,006
6	180–209	2,656	2,258
7	210–239	2,950	2,508
8	240–269	3,245	2,758
9	270–299	3,539	3,008
10	300–329	3,834	3,259
11	330–359	4,127	3,508
12	360–389	4,423	3,760
13	390–419	4,720	4,012
14	420 & Up	5,013	4,261

(2) Group home programs which generate the requisite number of points for RCL 13 or 14, which only accept children with special treatment needs as determined through the assessment process in subdivision (b) of Section 11467 and which have as part of their program measurable performance standards developed by the county of placement, shall be classified at RCL 13 or 14.

(h) (1) For fiscal year 1990–91, the standardized schedule of rates shall be implemented as follows:

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the fiscal year 1990–91 RCL shall receive their 1989–90 rate plus an amount equal to the California Necessities Index (CNI). The rate for fiscal year 1990–91 at which the state will participate shall not exceed the standard rate for the RCL.

(B) If the CNI increase to the group home program's fiscal year 1989–90 rate does not raise the group home program to the rate floor for the RCL, the group home program shall receive a rate equal to the rate floor for the RCL.

(C) A group home program which received an AFDC-FC rate for fiscal year 1989–90 at or above the standard rate for the RCL for fiscal year 1990–91 shall continue to receive that fiscal year 1989–90 rate.

(2) For fiscal year 1992–93 and fiscal year 1993–94, the standardized rate for each RCL shall be adjusted by an amount equal

to CNI computed pursuant to the methodology described in Section 11453. No adjustment shall be made in the standardized rate for each RCL for the 1991–92 fiscal year.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) A group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive that rate adjusted by an amount equal to the CNI. The rate for the current fiscal year shall not exceed the standard rate for the RCL and shall not be less than the rate floor for the RCL.

(3) Beginning with the 1994–95 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) Any group home program which received an AFDC-FC rate in the prior fiscal year below the adjusted standard rate for the RCL in the current fiscal year shall receive the adjusted RCL rate.

(i) (1) The rate for a new group home program of a new or existing provider shall be established at the rate floor for the new program's projected RCL.

(2) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(3) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(4) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Sections 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit

organizations shall not be deducted from the cost of providing services pursuant to this section.

(*l*) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

(m) Following the initial implementation of the group home ratesetting system described in this section, the department, with the advice and assistance of the counties and representatives of providers of group home care, may submit to the Legislature recommendations to modify the program classification point system, number of rate classification levels, amounts that make up the standardized schedule of rates, or other components of the system. These recommendations shall be based on the department's review and evaluation of the program classification system, group home cost data collected pursuant to Section 11466.3, and information from the Group Home Program Statements and Level of Care Assessments specified in Section 11467.

(n) This section shall remain in effect only until July 1, 1995, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before July 1, 1995, deletes or extends that date.

SEC. 12. 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 and 1991–92 fiscal years to reflect any change in the cost of living.

(3) Any cost-of-living adjustment under this section for any subsequent fiscal years pursuant to Section 11453 shall not include any adjustment to reflect increases for the cost of living for the 1990–91 and 1991–92 fiscal years.

SEC. 13. Section 11486 is added to the Welfare and Institutions

Code, to read:

11486. (a) The needs of any individual who is a member of a family applying for, or receiving, aid under this chapter to whom subdivision (b) applies shall not be taken into account in making the determination under Section 11450 with respect to his or her family for the following periods:

(1) For a period of six months upon the first occasion of any offense referred to in subdivision (b).

(2) For a period of 12 months upon the second occasion of any of those offenses referred to in subdivision (b).

(3) Permanently, upon the third occasion of any offense referred to in subdivision (b).

(b) Subdivision (a) shall apply to any individual who is found by a federal or state court, or pursuant to a special administrative hearing meeting the requirements of regulations adopted by the United States Secretary of Health and Human Services, including any determination made on the basis of a plea of guilty or nolo contendere, to have done any of the following acts for the purpose of establishing or maintaining the family's eligibility for aid or increasing, or preventing a reduction in, the amount of that aid:

(1) Making a false or misleading statement or misrepresenting, concealing, or withholding facts.

(2) Committing any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

(c) Proceedings against any individual alleged to have committed an offense described in subdivision (b) may be held either by hearing, pursuant to Section 10950 and in conformity with the regulations of the United States Secretary of Health and Human Services, if appropriate, or by referring the matter to the appropriate authorities for civil or criminal action in court.

(d) The department shall coordinate any action taken under this section with any corresponding actions being taken under the Food Stamp Program in any case where the factual issues involved arise from the same or related circumstances.

(e) Any period for which sanctions are imposed under this section shall remain in effect, without possibility of administrative stay, unless and until the findings upon which the sanctions were imposed are subsequently reversed by a court of appropriate jurisdiction, but in no event shall the duration of the period for which the sanctions are imposed be subject to review.

(f) Sanctions imposed under this section shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses for which the sanctions are imposed.

SEC. 14. Section 12200 of the Welfare and Institutions Code is amended to read:

12200. An aged, blind or disabled applicant or recipient shall be paid an amount of aid which when added to his or her federal benefit received under Part A of Title XVI of the Social Security Act and

other nonexempt income and resources, equals the following:

(a) For a blind applicant or recipient, the sum of seven hundred four dollars ($704) per month and for a married couple both qualifying for benefits under this chapter as blind, the sum of one thousand three hundred seventy-two dollars ($1,372) per month.

(b) For a married couple, both qualifying for benefits under this chapter, and one of whom is blind, the sum of one thousand two hundred ninety-five dollars ($1,295) per month.

(c) For an aged or disabled applicant or recipient, the sum of six hundred thirty dollars ($630) per month.

(d) For a married couple both qualifying for benefits under this chapter as aged or disabled, the sum of one thousand one hundred sixty-seven dollars ($1,167) per month.

(e) For an aged or disabled applicant or recipient under subdivision (c) or for a married couple under subdivision (d) whose living arrangement prevents preparation of his or her or their meals at home shall be entitled to an allowance of sixty-eight dollars ($68) per month for an individual and one hundred thirty-six dollars ($136) per month for a married couple in addition to any other amount he or she is entitled to under this chapter.

(f) For a disabled minor under 18 living with a parent or guardian or relative by blood or marriage, the sum of four hundred ninety-nine dollars ($499) per month.

(g) For a recipient in a nonmedical out-of-home care facility, the sum of seven hundred nine dollars ($709) per month.

(h) For the personal and incidental needs of a person receiving care in a medical facility under the Medi-Cal Act, the sum of thirty dollars ($30) per month. The department shall issue, or arrange for the issuance from the appropriate state agency of, an additional twelve dollars ($12) each month to each recipient to whom this subdivision applies.

(i) In the case of any individual, or couple, whose federal benefit received under Part A of Title XVI of the Social Security Act is reduced in accordance with Section 1612(a)(2)(A) of Public Law 92-603 because he lives in another person's household and receives support and maintenance-in-kind from such person, the appropriate grant level set forth in subdivision (a), (b), (c), or (d) of this section shall be reduced by the amount of the reduction in the federal benefit, subject to the provisions in Section 12204.

This subdivision shall be operative only during such time that such in-kind support and maintenance, under federal law, is treated as providing the basis for a lower payment standard rather than being treated as the receipt of unearned income.

SEC. 15. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. These adjustments shall become effective January 1 of each year. 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	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(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 1991, 1992, 1993, 1994, and 1995, 1996 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the cost of living was suspended pursuant to paragraph (1).

SEC. 16. 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 five hundred sixty-three dollars ($563) per month and the amount so established shall be subject to the provisions set forth in Section 12201.

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. 17. 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 eighty-three dollars ($83) per month and that the range of amounts so established shall be subject to the provisions set forth in Section 12201.

SEC. 18. Section 14005.12 of the Welfare and Institutions Code is amended to read:

14005.12. (a) For the purposes of Sections 14005.4 and 14005.7, the department shall establish the income levels for maintenance need at the lowest levels that reasonably permit medically needy persons to meet their basic needs for food, clothing, and shelter, and

for which federal financial participation will still be provided under Title XIX of the federal Social Security Act. It is the intent of the Legislature that the income levels for maintenance need for medically needy aged, blind, and disabled adults, in particular, shall be based upon amounts that adequately reflect their needs.

(1) Reductions in the maximum aid payment levels set forth in subdivision (a) of Section 11450 for the 1991-92 fiscal year shall not result in a reduction in the income levels for maintenance under this section.

(2) (A) The department shall seek any necessary federal authorization for maintaining the income levels for maintenance at the levels in effect June 30, 1991.

(B) If federal authorization is not obtained, medically needy persons shall not be required to pay the difference between the share of cost as determined based on the payment levels in effect on June 30, 1991, under Section 11450, and the share of cost as determined based on the payment levels in effect on July 1, 1991, and thereafter, under Section 11450.

(b) In the case of a single individual, the amount of the income level for maintenance per month shall be 80 percent of the highest amount that would ordinarily be paid to a family of two persons, without any income or resources, under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

(c) In the case of a family of two adults, the income level for maintenance per month shall be the highest amount that would ordinarily be paid to a family of three persons without income or resources under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

(d) For the purposes of Sections 14005.4 and 14005.7, for a person in a medical institution or nursing facility, the amount considered as required for maintenance per month shall be computed in accordance with, and for those purposes required by, Title XIX of the federal Social Security Act, and regulations adopted pursuant thereto. Those amounts shall be computed pursuant to regulations which include providing for the following purposes:

(1) Personal and incidental needs in the amount of not less than thirty-five dollars ($35) per month while a patient. The department may, by regulation, increase this amount as necessitated by increasing costs of personal and incidental needs. A long-term health care facility shall not charge an individual for the laundry services or periodic hair care specified in Section 14110.4.

(2) The upkeep and maintenance of the home.

(3) The support and care of his or her minor children, or any disabled relative for whose support he or she has contributed regularly, if there is no community spouse.

(4) If the person is an institutionalized spouse, for the support and care of his or her community spouse, minor or dependent children, dependent parents, or dependent siblings of either spouse, provided the individuals are residing with the community spouse.

(5) The community spouse monthly income allowance shall be established at the maximum amount permitted in accordance with Section 1924(d)(1)(B) of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396r-5(d)(1)(B)).

(6) The family allowance for each family member residing with the community spouse shall be computed in accordance with the formula established in Section 1924(d)(1)(C) of Title XIX of the Social Security Act (42 U.S.C. Sec. 1396r-5(d)(1)(C)).

(e) For the purposes of Sections 14005.4 and 14005.7, with regard to a person in a licensed community care facility, the amount considered as required for maintenance per month shall be computed pursuant to regulations adopted by the department which provide for the support and care of his or her spouse, minor children, or any disabled relative for whose support he or she has contributed regularly.

(f) The income levels for maintenance per month, except as specified in subdivisions (b) to (d), inclusive, shall be equal to the highest amounts that would ordinarily be paid to a family of the same size without any income or resources under subdivision (a) of Section 11450, multiplied by the federal financial participation rate.

(g) The "federal financial participation rate," as used in this section, shall mean 133⅓ percent, or such other rate set forth in Section 1903 of the federal Social Security Act (42 U.S.C. Sec. 1396(b)), or its successor provisions.

(h) The income levels for maintenance per month shall not be decreased to reflect the presence in the household of persons receiving forms of aid other than Medi-Cal.

(i) When family members maintain separate residences, but eligibility is determined as a single unit under Section 14008, the income levels for maintenance per month shall be established for each household in accordance with subdivisions (b) to (h), inclusive. The total of these levels shall be the level for the single eligibility unit.

(j) The income levels for maintenance per month established pursuant to subdivisions (b) to (i), inclusive, shall be calculated on an annual basis, rounded to the next higher multiple of one hundred dollars ($100), and then prorated.

SEC. 19. Section 15200.95 of the Welfare and Institutions Code, as added by Section 9 of Chapter 1647 of the Statutes of 1990, is amended to read:

15200.95. (a) Each county shall be responsible for its nonfederal share of administrative expenditures for administering the child support program.

(b) Notwithstanding subdivision (a), effective July 1, 1991, to June 30, 1992, inclusive, counties shall pay the nonfederal share of the administrative costs of conducting the reviews required under Section 15200.8 from the savings counties will obtain as a result of the reduction in the maximum aid payments specified in Section 11450. Effective July 1, 1992, to June 30, 1993, inclusive, the state shall pay

the nonfederal share of administrative costs of conducting the reviews required under Section 15200.8. Funding for county costs after June 30, 1993, shall be subject to the availability of funds in the annual Budget Act.

(c) In the event that the federal government does not provide the funding for federal financial participation in administrative costs of the child support program at the scheduled rates of 66 percent for regular federal financial participation and 90 percent for enhanced federal financial participation, the department shall increase the Tier I base incentive rate authorized under Section 15200.85 to supplant the dollar reduction to federal financial participation.

(1) This increase shall be based on the difference between the estimated dollar reimbursement resulting from the scheduled federal financial participation and the estimated dollar reimbursement resulting from the reduced federal financial participation rates. This increase to the base incentive rate, when applied to estimated total collections for the state fiscal year, shall approximately equal the federal reduction.

(2) This increase shall be determined annually, and shall apply to total distributed collections as defined in subdivision (c) of Section 15200.8.

(3) In no event shall the increased incentive rate exceed 4 percent in any fiscal year.

(4) This increase to the base incentive rate shall apply to the period of time in which the federal financial participation rate in administrative expenditures is reduced.

(d) This section shall become inoperative on June 30, 1996, and as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 15204.6 of the Welfare and Institutions Code is repealed.

SEC. 21. 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 subdivision (a) of Section 11055.5, subject to Section 15204.5.

SEC. 22. Section 18902.5 of the Welfare and Institutions Code is amended to read:

18902.5. (a) In the administration of this chapter counties may conduct an early fraud prevention and detection program pursuant to this section.

(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 in that 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 (6) 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. 23. Section 18906.7 of the Welfare and Institutions Code is repealed.

SEC. 24. 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 pursuant to subdivision (a) of Section 18902.5, subject to Section 18906.

SEC. 25. The State Department of Social Services shall prepare a report to the Joint Legislative Budget Committee evaluating all costs incurred and savings generated by early fraud detection and prevention programs. The department shall submit this report on or before January 1, 1993.

SEC. 26. Notwithstanding the former provisions of subdivision (b) of Section 11315 of the Welfare and Institutions Code, families that were receiving state only AFDC-U benefits under the Aid to Families with Dependent Children program prior to the operative date of this act shall not be entitled to any assistance calculated for any period of time on or after the operative date of Section 5 of this act.

SEC. 27. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Social Services shall adopt emergency regulations to implement this act. The adoption of regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Emergency regulations adopted by the State Department of Social

Services within 120 days after the effective date of this act in order to implement the provisions of this act shall not be subject to the review and approval of the Office of Administrative Law and shall be filed directly and immediately with the Secretary of State without review. These 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 State Department of Social Services complies with all of the provisions of Chapter 3.5, as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 28. Except as provided in Section 29, 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. 29. No reimbursement is required by Section 19 of this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 29.5. The Director of Finance may authorize the transfer of amounts, not to exceed the cumulative amount of two million ninety-one thousand dollars ($2,091,000), from Item No. 5180-101-001 to Item No. 5180-001-001 of the Budget Act of 1991, in order to fund the cost of the administrative hearings process associated with the reduction in the maximum aid payments under the Aid to Families with Dependent Children program.

SEC. 30. (a) Sections 9, 10, 11, 12, 14, 15, 16, and 17 of this act shall become operative on July 1, 1991.

(b) Sections 2, 3.5, 5, and 7 of this act shall become operative on August 1, 1991.

(c) Section 6 of this act shall become operative on August 1, 1991. However, the State Department of Social Services shall apply paragraph (1) of subdivision (a) of Section 11450, as amended by Chapter 456 of the Statutes of 1990, from August 1, 1991, to August 31, 1991, and paragraph (1) of subdivision (a) of Section 11450, as amended by Section 6 of this act, shall not be operative from August 1, 1991, to August 31, 1991.

SEC. 31. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 purpose of this act is to provide budget cuts to help meet the serious anticipated deficit for the 1991–92 fiscal year. Implementing the provisions of this act requires regulatory change, coordination with counties, and notice to recipients, all of which require time. In order for this act to be operative for the 1991–92 fiscal year and so facilitate the orderly adjustment of the public assistance system, it is necessary that this act take effect immediately.

CHAPTER 98

An act to amend Sections 19050.8, 19141, and 19775.4 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1991. Filed with Secretary of State July 1, 1991.]

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

SECTION 1. Section 19050.8 of the Government Code is amended to read:

19050.8. The board may prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies for not to exceed two years or between jurisdictions for not to exceed four years for any of the following purposes:

(a) To provide training to employees.

(b) To enable an agency to obtain expertise needed to meet a compelling program or management need.

(c) To facilitate the return of injured employees to work.

These temporary assignments or loans shall be deemed to be in accord with this part limiting employees to duties consistent with their class and may be used to meet minimum requirements for promotional as well as open examinations. An employee participating in that arrangement shall have the absolute right to return to his or her former position. Any temporary assignment or loan of an employee made for the purpose specified in subdivision (b) shall be made only with the voluntary consent of the employee.

In addition, out-of-class experience obtained in a manner not described in this section may be used to meet minimum requirements for promotional as well as open examinations, only if it was obtained by the employee in good faith and was properly verified under standards prescribed by board rule.

For purposes of this section, a temporary assignment or loan between educational agencies shall be extended for up to two additional years upon a finding by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, and with the approval of the Executive Officer of the State Personnel Board, that the extension is necessary in order to substantially

complete work on an educational improvement project. Public and private colleges and universities shall be considered educational jurisdictions within the meaning of this section.

A temporary assignment within an agency or between agencies may be extended by the board for up to two additional years in order for an employee to complete an apprenticeship program.

SEC. 2. Section 19141 of the Government Code is amended to read:

19141. This section applies only to a permanent employee, or an employee who previously had permanent status and who, since such permanent status, has had no break in the continuity of his or her state service due to a permanent separation. As used in this section, "former position" is defined as in Section 18522, or , if the appointing power to which reinstatement is to be made and the employee agree, a vacant position in any department, commission, or state agency for which he or she is qualified at substantially the same level.

Within the periods of time specified below, an employee who vacates a civil service position to accept an appointment to an exempt position shall be reinstated to his or her former position at the termination either by the employee or appointing power of the exempt appointment, provided he or she (a) accepted the appointment without a break in the continuity of state service, and (b) requests in writing reinstatement of the appointing power of his or her former position within 10 working days after the effective date of such termination.

The reinstatement may be requested by the employee only within the following periods of time:

(a) At any time after the effective date of the exempt appointment if:

(1) Appointed under subdivision (a), (b), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the California Constitution.

(2) Appointed under Section 2.1 of Article IX of the California Constitution.

(3) Appointed under Section 22 of Article XX of the California Constitution.

(4) Appointed to an exempt position under the same appointing power as the former position even though a shorter period of time may be otherwise specified for that appointment.

(b) Within six months after the effective date of the exempt appointment if appointed under subdivision (h), (i), (k), or (*l*) of Section 4 of Article VII of the California Constitution.

(c) Within four years after the effective date of an exempt appointment if appointed under any other authority.

An employee who vacates his or her civil service position to accept an assignment as a member, inmate, or patient helper under subdivision (j) of Section 4 of Article VII of the California Constitution shall not have a right to reinstatement.

An employee who is serving under an exempt appointment retains a right of reinstatement when he or she accepts an extension of that

exempt appointment or accepts a new exempt appointment, provided the extension or new appointment is made within the specified reinstatement time limit and there is no break in the continuity of state service. The period for which such right is retained is for the period applicable to the extended or new exempt appointment as if that appointment had been made on the date of the initial exempt appointment.

When an employee exercises his or her right of reinstatement and returns to his or her former position, the service while under an exempt appointment shall be deemed to be time served in the former position for the purpose of determining his or her seniority and eligibility for merit salary increases.

If the termination of an exempt appointment is for a reason contained in Section 19997 and the employee does not have a right to reinstatement he or she shall have his or her name placed on the departmental and general reemployment lists for the class of his or her former position.

SEC. 3. Section 19775.4 of the Government Code is amended to read:

19775.4. Except as provided in Section 19781, a person in recognized military service whose name was high enough on an employment list to be available for certification for possible permanent appointment to a position while he or she was in the armed forces of the United States shall retain his or her place on the list for three years following the date of his or her release from military service or until six months after the termination of the state military emergency, whichever is the earlier, provided, that a name shall not be retained on a list for longer than eight years after the list is established. The name of a person whose eligibility is retained under the provisions of this section beyond the time other names are removed from a list pursuant to Section 18901 shall be certified ahead of the names of persons on more recently prepared lists, except that the name shall be removed from the list if he or she refuses or has refused to accept appointment to a permanent position after certification thereto subsequent to his or her release from the armed forces.

Notwithstanding Section 19770, this section shall also be applicable to persons who are not civil service employees and were on active military duty because of the Iraq-Kuwait crisis.

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

In order to ensure that potential state employees called into the military service due to the Iraq-Kuwait crisis are provided with employment list eligibility to compensate for time served on active duty, it is necessary that this act go into immediate effect.

CHAPTER 99

An act to amend Sections 31468 and 31557.1 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor June 30, 1991 Filed with Secretary of State July 1, 1991]

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

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) "District" means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) "District" also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) "District" also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

(d) "District" also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) "District" also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the Constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) "District" also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905 of the Government Code.

(g) "District" also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county's retirement system established under this chapter.

(h) "District" also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of

Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage shall be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any such employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board shall not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement

association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any such employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee's commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

(i) "District" also includes any nonprofit corporation which operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and which has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation's inclusion in the county's retirement system.

(j) "District" also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and which has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association's inclusion in the county's retirement system.

SEC. 2. Section 31557.1 of the Government Code is amended to read:

31557.1. Officers and employees of a district as defined in subdivision (g) of Section 31468, become members on the date specified in the agreement between the regents and the board of supervisors relating to the transfer to the regents of the hospital in which they are employed or of the obligation to provide professional medical services at the hospital in which they are employed. Notwithstanding Section 31564, if the agreement so provides, those employees shall cease to be members on the date of a referendum relating to coverage of those members under the Federal Old Age, Survivors, Disability, and Health Insurance Program in which less than a majority of those eligible employees voted in favor of that coverage.

CHAPTER 100

An act to amend Section 65589.5 of the Government Code, and to amend Sections 50668.5, 50771.1, 50880, 50887, 50888.5, 50893, 50893.7, and 50894 of, and to add Sections 50771.3 and 50895 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 July 1, 1991 Filed with Secretary of State July 1, 1991.]

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

SECTION 1. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds all of the following:

(1) The lack of affordable housing is a critical problem which threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments which limit the approval of affordable housing, increase the cost of land for affordable housing, and require that high fees and exactions be paid by producers of potentially affordable housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions which result in disapproval of affordable housing projects, reduction in density of affordable housing projects, and excessive standards for affordable housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible affordable housing developments which contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without meeting the provisions of subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands to urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project affordable to low- and moderate-income households or condition approval in a manner which renders the project infeasible for development for the use of low- and moderate-income households unless it finds, based upon substantial evidence, one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article and the development project is not needed for the jurisdiction to meet its share of the regional housing need of low-income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation which is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(6) The development project is inconsistent with the jurisdiction's general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 of the Government Code or the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code. Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with development standards and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element pursuant to subdivision (b) of Section 65583. Nor shall anything in this section be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities, because the Legislature finds that the lack of affordable housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Affordable to low- and moderate-income households" means at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the remaining units shall be sold or rented to either lower income households or persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(3) "Area median income" shall mean area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for the lower income households in accordance with the provisions of this subdivision for 30 years.

(4) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or

the percentage of a lot which may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, which have a substantial adverse effect on the viability or affordability of a housing development affordable to low- and moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d).

(j) When a proposed housing development project complies with the applicable general plan, zoning, and development policies in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

SEC. 2. 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, 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 loans for rental housing developments awarded to nonprofit sponsors, the total secured debt in a superior position to the department's loan, plus the department's loan, 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 governmental 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. 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) (A) 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.

(B) 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) (1) 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.

(2) Notwithstanding conflicting provisions of this chapter, the department may elect to make the regulations referred to in paragraph (1) additionally applicable until December 31, 1992, 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. 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 the 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 residential 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 that fund pursuant to Section 53130.

Moneys transferred to the fund pursuant to 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 is added to the Health and Safety Code, 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 only until June 30, 1992.

SEC. 5. Section 50880 of the Health and Safety Code is amended to read:

50880. (a) The Legislature finds and declares that the traditional family structure has been altered significantly during the past four decades, resulting in a dramatic rise in single-parent households and in both parents working outside the home. The 1980 United States Census reveals that the percentage of married women with children working outside the home had risen from 30 percent in 1970 to 48 percent in 1981. The Legislature finds that the number of single-parent households has risen from 8 percent in 1960 to 19 percent in 1980. Most of these single-parent households will be poor unless environments are created to support the economic and social viability of one-parent families.

(b) The Legislature finds and declares that the lack of suitable housing, convenient and quality child care, and employment training programs, contributes to shockingly high rates of poverty among single-parent households and, very often, to homelessness. One of every five children in America lives in poverty. Further, 64 percent of California families headed by women depend on Aid to Families with Dependent Children to survive.

(c) The Legislature finds and declares both of the following:

(1) Currently there are an estimated 10,000 to 30,000 homeless children in California, and additional children are in imminent danger of becoming homeless because of excessive rents, loss of family income, or deteriorating conditions in their current dwelling unit.

(2) Lack of adequate housing for homeless children exacerbates all the problems they face. A significant proportion of an entire generation will grow up without adequate health care, education, and socialization, and will be more prone to unemployment, hospitalization, and incarceration.

(d) The Legislature finds that in response to the direct link between poverty and lack of employment opportunities, it has passed legislation to establish a range of job creation, counseling, and training programs directed towards assisting persons in poverty. However, these programs often do not reach those persons most in need of them because the hardship of assembling a manageable package of work, child care, and affordable, safe housing, adds to the

already burdened lives of working parents, often resulting in failure in one or more aspects of this often precarious arrangement.

(e) The Legislature finds and declares that the elderly are one of the largest special needs groups in the state, and that they are faced with substantial housing problems. In addition to a lack of decent and affordable housing, the elderly face social isolation and a lack of supportive services, all of which accentuate the physical and psychological effects of aging. The Legislature further finds and declares that single parents and their children can benefit from the presence, experience, and assistance of elderly persons, and that providing assistance to single parents and their children in an intergenerational living situation is of benefit to the elderly.

(f) The Legislature finds and declares that the legislative findings and declarations set forth in Sections 1 to 5, inclusive, of both Chapters 1042 and 1043 of the Statutes of 1979, remain valid and are applicable to the program enacted by this chapter. The Legislature finds and declares that there is an urgent need to establish a demonstration program to design new living environments, part of which will include social and economic programs, so that working parents, job-seeking parents, and homeless parents can build productive lives for themselves and their children and part of which will include intergenerational living to help combat social isolation of the elderly, to encourage independent living by the elderly, and to provide special benefits to single parents and their children as a result of the development of relationships between them and their elderly neighbors.

SEC. 6. Section 50887 of the Health and Safety Code is amended to read:

50887. The department shall make awards from the account for the purposes of assisting the development of community housing developments. To the extent feasible, the department shall award approximately one-half of the available funds to community housing developments in the southern portion of the state and the balance to community housing developments in the northern portion of the state. To the extent feasible, not less than 20 percent of the funds awarded pursuant to this chapter shall be allocated to rural areas.

SEC. 7. Section 50888.5 of the Health and Safety Code is amended to read:

50888.5. The jobs and economic development component of a community housing development shall include all of the following features and criteria:

(a) The sponsor shall propose and implement resident selection criteria and occupancy policies which consider existing employment at nearby facilities, the potential of employment at nearby facilities through publicly assisted or other job-training or entry-level employment programs, and employment in the management and operation of the community housing development and its child care center.

(b) The sponsor shall propose and implement a program of job

placement and training for residents, which shall be implemented within 18 months of initial occupancy.

(c) The sponsor shall propose and implement a program of employment and job training with respect to the community housing development.

SEC. 8. Section 50893 of the Health and Safety Code is amended to read:

50893. The department shall make, or undertake commitments to make, construction or rehabilitation loans, including land acquisition costs, and mortgage loans in accordance with subdivisions (a) and (c) for new construction, and subdivisions (b) and (c) for rehabilitation, to sponsors to finance the development of community housing developments and congregate housing developments. The development cost payments may be provided as loans to be repaid at 3 percent interest and payments of principal or interest, or both, may be deferred or made payable over a period of time. For these purposes, the department shall enter into regulatory agreements and other agreements, and security documents, with the sponsors receiving funds from the fund. Upon the recordation, the regulatory agreement and all other agreements or documents included or incorporated by reference within the regulatory agreement shall constitute enforceable restrictions upon the property for the term of the loan. The term of the loan and its schedule for repayment may be extended by the department for additional 10-year periods as long as the community housing development or congregate housing development is operated in a manner consistent with the regulatory agreement and the sponsor needs an extension in order to continue to operate the community housing development or congregate housing development in a manner consistent with this chapter. However, the term of any loan, including any extension thereof, shall not exceed the useful life of the community or congregate housing development for which the loan is made.

(a) Loans to sponsors for new construction of community housing developments or congregate housing developments shall be for terms not less than 40 years. After 30 years from the time the loans are made, the sponsor shall begin to repay the loan in accordance with a payment plan, as determined by the department, that shall maintain the rents affordable to eligible households.

(b) Loans made to sponsors of community housing developments or congregate housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of community housing developments or congregate housing developments for rehabilitation shall only be for terms of not less than 20 years. The sponsor may elect to begin to repay the loan at any time in accordance with a payment plan, as approved by the department, that shall maintain the rents at levels affordable to eligible households.

(c) Notwithstanding any loan payment plan approved by the department, the department may permit the prepayment of a loan

at any time, on the basis of net cash-flow of a development, provided that the term of the regulatory agreement shall not be reduced due to any prepayment.

SEC. 9. Section 50893.7 of the Health and Safety Code is amended to read:

50893.7. The regulatory agreement shall contain at least the following provisions, and any others determined necessary by the department, each of which is a binding requirement:

(a) Substantially the same provisions as are required by Sections 50766 and 50767, except that they shall be applicable to sponsors and developments assisted pursuant to this chapter and the requirements of this chapter.

(b) A description of, and requirements governing, all social and economic components of the community housing development and the sponsor's affirmative responsibilities with respect to the components.

(c) A provision making the covenants and conditions of the agreement binding upon successors in interest of the sponsor.

(d) For sponsors other than a governmental agency, a provision limiting the distribution of the sponsor's earnings from the assisted portion of the community housing development in an annual amount no greater than 8 percent of the sponsor's actual investment, excluding unaccrued liabilities of the sponsor, in the assisted portion of the community housing development. The "assisted portion" of a community housing development includes the assisted units, the portion of the common area that is equal to the ratio of floor space of the assisted units to total units, and if any funds are awarded under this chapter to develop all or any portion of a child care center for the community housing development, the entire child care center. A sponsor shall not be subject to a limitation on distributions received from that portion of the community housing development that is not the assisted portion. That portion of the development which is not assisted shall include the units which are not assisted units, the portion of the common area that is equal in proportion to the ratio of floor space of the nonassisted units to total units, the child care center, if no funds have been awarded under this chapter for development of the center, and any commercial space which, for the purposes of this chapter, does not include any child care center. The sponsor, if other than a governmental agency, may elect to maintain a debt service coverage ratio of 115 percent.

(e) Provisions setting forth the terms of, and the implementation of, occupancy agreements, including provisions for eviction for "good cause." "Good cause," as used in this subdivision, means the allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(f) Provisions for grievance hearings and other resident

protections which ensure reasonable security of continued occupancy.

(g) Provisions to ensure that if an eligible household's income exceeds the standard pursuant to which it was accepted for tenancy, that fact alone shall neither constitute cause for the eviction nor be a violation of the sponsor's loan agreement.

(1) If, after annual income certification, an assisted unit becomes occupied by a household which exceeds 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 does not exceed the income limits specified in Section 50079.5, that unit shall be rented to a household which does not exceed the income limits specified in Section 50105.

(2) If, after annual income certification, an assisted unit becomes occupied by a household which exceeds the income limits specified in Section 50079.5, that household shall be provided a six-month notice of termination. The 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.

(3) In the case of a housing cooperative, the provisions of paragraph (1) shall apply and the provisions of paragraph (2) shall not apply. If, after annual income certification, an assisted unit in a housing cooperative becomes occupied by a household which exceeds the income limits specified in Section 50079.5, that household shall be provided a six-month notice that the monthly payment for occupancy required to be paid by the household will be equal to the market rate for comparable units, as determined by the department. The next available membership share for occupancy of a comparable unit shall be sold to a household with an income at or below the limit specified in Section 50079.5.

(h) 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.

(i) 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.

SEC. 10. Section 50894 of the Health and Safety Code is amended to read:

50894. (a) Where loans will be used in conjunction with federal

and other state housing assistance or tax credits, and a conflict exists between the other state and federal program requirements and this chapter, the requirements of this chapter may be waived only to the extent necessary to permit the federal or other state financial participation or eligibility for tax credits.

Where a conflict exists between any state or federal law or regulation regarding nondiscrimination and this chapter, the requirements of this chapter may be waived only to the extent necessary to bring this chapter in compliance with the law or regulation regarding nondiscrimination.

SEC. 11. Section 50895 is added to the Health and Safety Code, to read:

50895. 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, 1992.

SEC. 12. The Legislature hereby finds and declares that the amendments made by this act do not significantly alter the manner in which proceeds of bonds sold pursuant to the Housing and Homeless Bond Act of 1988 are expended, but rather complement and enhance the underlying purpose and provisions of that bond act.

The Legislature also finds and declares that the amendments made to Section 50880 by Section 5 of this act do not constitute changes in, but are declaratory of, existing law.

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:

This act corrects a chaptering problem by revising a provision of subdivision (c) of Section 50668.5 of the Health and Safety Code, inadvertently repealed by Chapter 1509 of the Statutes of 1990 and relating to requirements for certain housing rehabilitation loans, and to provide a statutory technical correction, both of which are vital to the efficient administration of ongoing programs. This act also permits the Department of Housing and Community Development to operate the Rental Housing Construction Program and the Family Housing Demonstration Program under emergency regulations for a specified period necessary to carry out the efficient administration of these programs. In addition, this bill revises existing provisions relating to the establishment of a reserve account for the Rental Housing Construction Program, in order to ensure the fiscal stability of that program.

Therefore, it is necessary that this act take effect immediately.

CHAPTER 101

An act to repeal and add Section 50963 of the Government Code, relating to retirement.

[Approved by Governor July 1, 1991. Filed with Secretary of State July 1, 1991.]

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

SECTION 1. Section 50963 of the Government Code is repealed.

SEC. 2. Section 50963 is added to the Government Code, to read:

50963. (a) Upon attaining 60 years of age, a member may, subject to the annual approval of the district governing board, choose either of the following options:

(1) He or she may continue service with the volunteer department, accruing length of service award credit of up to the maximum of 20 years before applying for the award.

(2) He or she may apply for the award once the minimum 10 years of length of service award credit has been accrued, and continue service with the volunteer department without accruing additional length of service award credit.

(b) An award shall not begin to accrue unless and until an appropriate application therefor has been received by the board in its Sacramento office, and shall begin to accrue and become payable on the first day of the month following the receipt of the application.

(c) This section may be made applicable to a district only during the periods of time that the district governing board finds that there are retention and recruitment problems in the district.

CHAPTER 102

An act to add Section 1346.4 to the Health and Safety Code, relating to health care service plans.

[Approved by Governor July 1, 1991 Filed with Secretary of State July 2, 1991.]

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

SECTION 1. Section 1346.4 is added to the Health and Safety Code, to read:

1346.4. (a) The Legislature finds and declares all of the following:

(1) That millions of Californians are insured under health care service plans regulated by the Knox-Keene Health Care Service Plan Act of 1975, and that more Californians each year are insuring themselves under these health plans.

(2) That greater awareness of the rights and protections afforded by the Knox-Keene Health Care Service Plan Act of 1975 will further the act's goal of providing access to quality health care.

(3) That the public, Knox-Keene providers, and those seeking to form health care service plans under the act will benefit from having the text of the act available to them, affording a greater understanding of what the act does and making it easier for providers to comply with its provisions.

(b) The commissioner shall annually publish this chapter and make it available for sale to the public.

CHAPTER 103

An act to repeal and add Sections 17053.20 and 23615 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 1, 1991 Filed with Secretary of State July 2, 1991.]

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

SECTION 1. Section 17053.20 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 17053.20 is added to the Revenue and Taxation Code, to read:

17053.20. (a) For taxable years beginning on or after February 1, 1992, there shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039) the sum of the amounts equal to the amount determined in subdivisions (b) and (c) for amounts paid or incurred on or after January 1, 1993, by an eligible employer to provide health coverage for eligible individuals and that individual's dependent or dependents.

(b) The amount of the credit allowed under this subdivision (a) shall be twenty-five dollars ($25) per month per covered individual or 25 percent of the total amount paid or incurred per month for that health coverage by the employer during the taxable year, whichever is more. To qualify for the credit under this subdivision, an eligible employer shall pay or incur at least 75 percent of the monthly premium for health coverage for any eligible individual who elects to have that coverage and for which the individual does not pay more than 25 percent. At least annually, the employer shall make participation available to all eligible individuals and to all newly hired individuals within 60 days of the date of employment. Nothing in this section shall prohibit an employer from making additional health benefits available to an eligible individual at the employer's or eligible individual's expense.

(c) The amount of the credit allowed under this subdivision shall

be twenty-five dollars ($25) per month or 25 percent of the total amount paid or incurred per month per covered individual's dependent or dependents, whichever is more. To qualify for the credit provided under this subdivision, an eligible employer shall pay or incur at least 75 percent towards health overage for the eligible individual's dependent or dependents and for which the individual does not pay more than 25 percent. An employer may qualify for the credit regardless of whether participation is made available to all individuals and newly hired individuals who perform services for less than 35 hours per week. Nothing in this section shall require an eligible employer to pay for dependent health coverage in order to qualify for the eligible individual health coverage credit provided in this section.

(d) The credit allowed by this section shall be in lieu of any deduction to which the taxpayer otherwise may be entitled for expenses on which a credit under this section is claimed.

(e) If 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.

(f) Any amount of expenses paid by an employer under this section shall not be included as income to the eligible individual for purposes of this part. If those expenses have been included in arriving at federal adjusted gross income of the eligible individual, the amount included shall be subtracted in arriving at state adjusted gross income. Expenses paid under this section shall not be considered "compensation for services" in determining gross income of the eligible individual under Section 17071.

(g) With the exception of a husband and wife, if two or more eligible employers share in the expenses, each eligible employer shall be allowed to receive their share of the tax credit in proportion to the respective share of the expenses paid or incurred. In the case where the eligible employer is a partnership, which may include a husband and wife, 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 where either the husband or the wife is an eligible employer and each file a separate return, the credit may be taken by either or equally divided between them.

(h) For purposes of this section:

(1) "Eligible employer" means an individual, estate, trust, or partnership which employs on the average during the taxable year no more than 25 employees. The average number of employees employed during the taxable year shall be determined by dividing the total number of hours for which wages are required to be reported to the Employment Development Department for the calendar year immediately preceding the employer's taxable year

for which the credit is to be allowed by 2,080 hours.

(2) "Eligible individual" means an individual who, on a form prescribed by the Franchise Tax Board and retained by the qualified employer, certifies that he or she is a resident of California (within the meaning of Section 17014), and who does one of the following:

(A) Performs services for an eligible employer for an average of at least 35 hours per week for remuneration.

(B) Performs services for an eligible employer for less than 35 hours per week for remuneration, if the eligible employer chooses to provide health coverage for that individual. For purposes of this subparagraph, an individual performing services for less than 35 hours a week includes a seasonal employee who on an annual average performs services for less than 35 hours per week.

(C) As a sole proprietor or a general partner of a business, provides at least an average of 35 hours per week in personal services to that business, for which health coverage is contracted.

(3) "Health coverage" means health coverage that, at a minimum, includes basic health care services for illness or injury provided by a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, in consideration of premiums or other periodic charges payable to it. "Health coverage" may include provisions for cost sharing if the total cost sharing does not exceed 200 percent of the annual premium, and no copayment exceeds 50 percent of the cost of a covered service.

(4) "Basic health care services" means the services defined in subdivision (b) of Section 1345 of the Health and Safety Code, or those benefits and provisions as may be required of employers in this state by the enactment of Chapter 829 of the Statutes of 1989, or all of the following benefits:

(A) Inpatient and outpatient hospital services, including inpatient care for a period of at least 120 days of confinement in each calendar year and ancillary services.

(B) Inpatient and outpatient physician services.

(C) Diagnostic and screening tests.

(5) "Dependent" means any person who qualifies as a dependent of the eligible individual for purposes of a health care service plan certified to qualify for the credit allowed under this section.

(6) "Supplemental benefits" means any of the following:

(A) Prenatal and well-baby care which meets guidelines established by the American Academy of Pediatrics.

(B) Mental health benefits consisting of at least either of the

following:

(i) Inpatient hospital care for a mental disorder for not less than 45 days per year.

(ii) Outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year.

(i) An eligible employer shall be entitled to an additional five dollar ($5) tax credit per month per covered employee for each of the two supplemental benefits.

(j) The Department of Corporations shall forward to the Franchise Tax Board at least annually, or more frequently upon request, a list of all health care services plans licensed under Section 1353 of the Health and Safety Code which are required to provide the basic health care services defined in subdivision (b) of Section 1345 of the Health and Safety Code. The Department of Insurance shall forward to the Franchise Tax Board at least annually, or more frequently upon request, a list of all insurers authorized to transact disability insurance in this state and nonprofit hospital service plan corporations holding the certificate of authority required by Section 11504 of the Insurance Code.

(k) To be eligible for the credit under this section, each disability insurance policy, health care service plan contract, or nonprofit hospital service plan contract shall be certified as providing the basic health care services described in paragraph (4) of subdivision (h), and, if applicable, either or both of the supplemental benefits of paragraph (6) of subdivision (h), by legal opinion of the plan's counsel, a copy of which shall be provided to each eligible employer to be retained for submission to the Franchise Tax Board upon request.

SEC. 3. Section 23615 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 23615 is added to the Revenue and Taxation Code, to read:

23615. (a) For income years beginning on or after February 1, 1992, there shall be allowed as a credit against the tax (as defined by Section 23036), an amount equal to the sum of the amounts determined in subdivisions (b) and (c) for amounts paid or incurred on or after January 1, 1993, by an eligible employer to provide health coverage for an eligible individual and that individual's dependent or dependents.

(b) The amount of the credit allowed under this subdivision shall be twenty-five dollars ($25) per month per covered individual or 25 percent of the total amount paid or incurred per month for that health coverage by the employer during the income year, whichever is more. To qualify for the credit under this subdivision, an eligible employer shall pay or incur at least 75 percent of the monthly premium for health coverage for eligible individuals who elect to have that coverage and for which the individual does not pay more than 25 percent. At least annually, the employer shall make participation available to all eligible individuals and to all newly

hired individuals within 60 days of the date of employment. Nothing in this section shall prohibit employers from making additional health benefits available to an eligible individual at the employer's or eligible individual's expense.

(c) The amount of the credit allowed under this subdivision shall be twenty-five dollars ($25) per month or 25 percent of the total amount paid or incurred per month per covered individual's dependent or dependents, whichever is more. To qualify for the credit provided under this subdivision, an eligible employer shall pay or incur at least 75 percent per month towards health coverage for the eligible individual's dependent or dependents and for which the individual does not pay more than 25 percent. An employer may qualify for the credit regardless of whether participation is made available to all individuals and newly hired individuals who perform services for less than 35 hours per week. Nothing in this section shall require an eligible employer to pay for dependent health coverage in order to qualify for the eligible individual health coverage credit provided in this section.

(d) The credit allowed by this section shall be in lieu of any deduction to which the taxpayer otherwise may be entitled for expenses on which a credit under this section is claimed.

(e) If two or more eligible employers share in the expenses, each employer shall be allowed to receive their share of the tax credit in proportion to its respective share of the expenses paid or incurred. In the case where the eligible employer is 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) of Part 10, which includes Section 704 of the Internal Revenue Code concerning substantial economic effect, relating to partner's distributive share.

(f) If 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.

(g) Any amount of expenses paid by an employer under this section shall not be included as income to the eligible individual for purposes of Part 10 (commencing with Section 17001). If those expenses have been included in arriving at federal adjusted gross income of the eligible individual, the amount included shall be subtracted in arriving at state adjusted gross income. Expenses paid under this section shall not be considered "compensation for services" in determining gross income of an eligible individual under Section 17071.

(h) For purposes of this section:

(1) "Eligible employer" means a taxpayer which employs on the average during the income year no more than 25 employees. The average number of employees employed during the income year shall be determined by dividing the total number of hours for which wages are required to be reported to the Employment Development

Department for the calendar year immediately preceding the employer's income year for which the credit is to be allowed by 2,080 hours.

(2) "Eligible individual" means an individual who, on a form prescribed by the Franchise Tax Board and retained by the qualified employer, certifies that he or she is a resident of California (within the meaning of Section 17014), and who does one of the following:

(A) Performs services for an eligible employer for an average of at least 35 hours per week for remuneration.

(B) Performs services for an eligible employer for less than 35 hours per week for remuneration if the eligible employer chooses to provide health coverage for that individual. For purposes of this subparagraph, an individual performing services for less than 35 hours a week includes a seasonal employee who on an annual average performs services for less than 35 hours per week.

(C) As a sole proprietor or shareholder of a business, provides at least an average of 35 hours per week in personal services to that business, for which health coverage is contracted.

(3) "Health coverage" means health coverage that at a minimum, includes basic health care services for illness or injury provided by a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical or hospital service agreements, or membership contracts in consideration of premiums or other periodic charges payable to it. "Health coverage" may include provisions for cost sharing if the total cost sharing does not exceed 200 percent of the annual premium, and no copayment exceeds 50 percent of the cost of a covered service.

(4) "Basic health care services" means the services defined in subdivision (b) of Section 1345 of the Health and Safety Code, or those benefits and provisions as may be required of employers in this state by the enactment of Chapter 829 of the Statutes of 1989, or all of the following benefits:

(A) Inpatient and outpatient hospital services, including inpatient care for a period of at least 120 days of confinement in each calendar year and ancillary services.

(B) Inpatient and outpatient physician services.

(C) Diagnostic and screening tests.

(5) "Dependent" means any person who qualifies as a dependent of the eligible individual for purposes of a health care service plan certified to qualify for the credit allowed under this section.

(6) "Supplemental benefits" means:

(A) Prenatal and well-baby care which meets guidelines established by the American Academy of Pediatrics.

(B) Mental health benefits consisting of at least:

(i) Inpatient hospital care for a mental disorder for not less than 45 days per year.

(ii) Outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year.

(i) An eligible employer shall be entitled to an additional five dollar ($5) tax credit per month per covered employee for each of the two supplemental benefits.

(j) The Department of Corporations shall forward to the Franchise Tax Board at least annually, or more frequently upon request, a list of all health care services plans licensed under Section 1353 of the Health and Safety Code which are required to provide the basic health care services defined in subdivision (b) of Section 1345 of the Health and Safety Code. The Department of Insurance shall forward to the Franchise Tax Board at least annually, or more frequently upon request, a list of all insurers authorized to transact disability insurance in this state and nonprofit hospital service plan corporations holding the certificate of authority required by Section 11504 of the Insurance Code.

(k) To be eligible for the credit under this section, each disability insurance policy, health care service plan, or nonprofit hospital service plan contract shall be certified as providing the basic health care services described in paragraph (4) of subdivision (h), and, if applicable, either or both of the supplemental benefits of paragraph (6) of subdivision (h), by legal opinion of the plan's counsel, a copy of which shall be provided to each eligible employer to be retained for submission to the Franchise Tax Board upon request.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 104

An act to amend Sections 5002, 5004, 5006, and 5007 of, to amend and renumber Section 5004 of, to add Section 5023.5 to, and to repeal and add Sections 5021, 5022, and 5023 of, the Insurance Code, and to amend Sections 2695 and 2699.5 of the Public Resources Code, relating to earthquake insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1991. Filed with Secretary of State July 2, 1991]

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

SECTION 1. Section 5002 of the Insurance Code is amended to read:

5002. (a) There is hereby created the California Residential Earthquake Recovery Fund, which is a special fund which,

notwithstanding Section 13340 of the Government Code, is continuously appropriated for the purposes of this chapter. The fund shall be administered by the commissioner.

(b) The purpose of the fund shall be to provide payments for structural damage caused by earthquakes to California residential real property.

(c) Money in the fund shall be used exclusively for the following purposes:

(1) Payment for structural damages to residential property caused by earthquakes as provided by this chapter.

(2) Payment of expenses of administering this chapter. Expenses of administering this chapter shall be paid only from the fund.

(3) Payment of expenses of insurers for other persons or entities incurred in connection with the adjustment of claims under this chapter.

(4) The purchase of reinsurance where authorized by this chapter.

(5) The expenses of issuance and the repayment of revenue bonds that may be authorized for the purposes of this chapter.

(6) The reduction of earthquake hazards by retrofitting dwellings pursuant to Section 5002.5.

(d) Money in the fund shall be invested and reinvested as part of the Pooled Money Investment Account, however the fund and its interest shall not be available for transfers pursuant to Section 16310 of the Government Code.

SEC. 2. The first Section 5004 of the Insurance Code, as added by Chapter 1165 of the Statutes of 1990, is amended to read:

5004. (a) The commissioner shall establish the surcharge to be collected pursuant to Section 5003. The surcharge shall be established as follows:

(1) The commissioner shall provide for different surcharges for different risks based upon the earthquake risk for the location and the risk presented by the type and age of the residential property. The commissioner may establish a reduced surcharge for residential property specifically designed or retrofitted to withstand earthquake damage provided that the reduction is based on evidence of identifiable and achievable retrofit procedures which reduce the cost of loss from seismic activity.

(2) Except as provided by paragraph (3), the surcharge for a single residence shall not be lower than twelve dollars ($12) or higher than sixty dollars ($60).

(3) The commissioner may adjust the surcharge annually to reflect extraordinary changes in the risk, temporary or extraordinary changes in the condition of the fund, and changes in residential construction costs. However, no annual increase may be made under this paragraph in excess of the increase in the Engineering News Record construction cost index.

(b) The commissioner shall immediately report to the policy committees of the Legislature with jurisdiction over insurance and

to the Joint Legislative Budget Committee upon establishing or increasing the surcharge or fee as authorized by this section.

SEC. 3. The second Section 5004 of the Insurance Code, as added by Chapter 1165 of the Statutes of 1990, is amended and renumbered to read:

5005. (a) The fund shall make payment for structural damages as provided in this chapter to owners of residential property located within the state other than for losses caused by fire, subject to the following limits:

(1) Payment for structural damage is limited to a maximum of fifteen thousand dollars ($15,000) per occurrence.

(2) The payments shall be subject to a deductible equal to one-half of 1 percent of the amount of fire coverage as stated in the policy of residential property insurance, or, if there is no stated amount per unit of residential property, then the fair market value of the residence, excluding land value, but in no case less than one thousand dollars ($1,000), and in no case more than three thousand five hundred dollars ($3,500).

(b) The amount established by subdivision (a) shall be adjusted annually by the commissioner to reflect changes in the construction cost for residential structures.

(c) Except as provided by subdivision (a) of Section 5008, payments from the fund shall apply only for property for which the surcharge was collected. The property shall remain eligible for payments for the period for which the underlying residential property insurance is in effect.

(d) The fund shall not make payments to the extent that any loss or damage is covered by any privately purchased policy of insurance. Insurers may submit earthquake insurance rating plans which include deductibles varying in relation to insured values and payments provided under this chapter.

(e) Payments shall not be made by the fund for any loss which is not reported within 90 days after the event causing the loss, except as provided by regulations issued by the commissioner.

The commissioner shall provide an explanation of this requirement, in 10-point type boldface type, with the notice required by Section 5009.

SEC. 4. Section 5006 of the Insurance Code is amended to read:

5006. (a) The commissioner may contract with insurers, licensees of the department, or other persons or entities for the provision of adjustment services. Any person or entity that provides adjustment services shall submit its recommendations to the commissioner, and any payment made on the claim shall be paid by the fund to the claimant.

(b) The commissioner may use a portion of the fund to purchase reinsurance.

SEC. 5. Section 5007 of the Insurance Code is amended to read:

5007. (a) The state and the commissioner shall not be liable for any payments in excess of the amount of money in the fund. Insurers

collecting the earthquake surcharge shall bear no risk and shall assume no liability for payments made by the fund, including any pro rata distribution.

(b) In the event that an earthquake exhausts the money in the fund, including any money that may have been deposited into the fund from any sale of revenue bonds, and any applicable reinsurance, the money in the fund shall be allocated to all claimants on a pro rata basis, in proportion to the amount of the claim that would have been paid if sufficient funds were available. If it reasonably appears that the fund will be exhausted, the commissioner shall immediately inform the Legislature, and shall report the amount of revenue bonds, or additional revenue bonds, required to be authorized by the California Residential Earthquake Recovery Fund Bond Committee to meet the obligations of the fund.

(c) The fund shall not be a member of the California Insurance Guarantee Association established by Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1.

SEC. 6. Section 5021 of the Insurance Code is repealed.

SEC. 7. Section 5021 is added to the Insurance Code, to read:

5021. As provided in this article, the committee is authorized at any time following its establishment to, by resolution, authorize the issuance by the state of revenue bonds, notes, or other evidences of indebtedness, hereafter collectively referred to as "bonds," in one or more issuances, pledging all or part of the revenues which may be received in the fund pursuant to this chapter. The committee has no power at any time or in any manner to pledge the credit or taxing power of the state or any of its local agencies.

(a) The total amount of revenue bonds authorized to be issued pursuant to this article is one billion dollars ($1,000,000,000), exclusive of any refunding bonds.

(b) The interest on any bonds issued pursuant to this article shall be includable as gross income for federal income tax purposes.

(c) Proceeds of the sale of any bonds authorized by this article shall be deposited in the fund and may be utilized to (1) carry out the purposes of this chapter, (2) pay costs of issuance of the bonds, (3) pay interest on the bonds for a period of up to one year, or (4) purchase any insurance, letter of credit, or other credit enhancement as the committee may find desirable to assist the sale of the bonds.

SEC. 8. Section 5022 of the Insurance Code is repealed.

SEC. 9. Section 5022 is added to the Insurance Code, to read:

5022. (a) Issuance of bonds pursuant to this article shall be authorized by a resolution adopted by the committee. Any bonds (1) may be negotiable, (2) may be payable to order or to bearer, (3) may be in any denomination, (4) shall be payable not later than 20 years from the date of issuance, (5) may bear interest at a fixed or variable rate or rates to be determined as provided by the resolution and payable as provided therein, (6) may be payable on a fixed date or upon demand of the holder, (7) may be made subject to the

prepayment or redemption at the option of the state or at the option of the holder, and (8) may contain other terms the committee may determine to be necessary and appropriate.

(b) In connection with any bonds issued pursuant to this article, the committee or the treasurer acting on behalf of the committee may obtain or arrange for any insurance, letter of credit, or other credit enhancement or liquidity arrangements as the committee determines to be appropriate and cost-effective, and may enter into any contracts or agreements for those arrangements not inconsistent with this article.

(c) All bonds issued under this article shall bear the facsimile signature of the commissioner and the facsimile countersignature of the treasurer, and the bonds shall be signed, countersigned, and endorsed by the officers who shall be in office on the date of issuance thereof, and each of the bonds shall bear an impress or reproduction of the Great Seal of the State of California. The bonds so signed, countersigned, endorsed, and sealed, when sold, are valid although the sale thereof be made at a date or dates upon which the officers having signed, countersigned, and endorsed the bonds, or any or either of the offices held by them at the time of signing, countersigning, or endorsing the bonds. Each bond issued under this chapter, if subject to call or redemption prior to maturity, shall contain a recital to that effect.

(d) The bonds may be sold at public or private sale, at a price above or below the par amount thereof, as may be approved by the committee.

SEC. 10. Section 5023 of the Insurance Code is repealed.

SEC. 11. Section 5023 is added to the Insurance Code, to read:

5023. (a) Any bonds issued pursuant to this article, and the repayment of any such bonds, shall be special obligations of the state secured solely by the moneys in the fund. No bonds issued pursuant to this article shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this article. Every bond issued pursuant to this article shall contain a recital stating that neither the payment of the principal thereof nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California other than as provided in this article, and neither the faith and credit nor the taxing power of the state are pledged to the repayment thereof.

(b) So long as any bonds issued pursuant to this article are outstanding, the surcharge and any other moneys in the fund, to the extent provided in the resolution of issuance, are pledged to the payment of the bonds. The pledge shall constitute a first lien and security interest, ratably from all other prior or subsequent borrowings unless the committee provides in a resolution of issuance, that any borrowing shall constitute a junior lien, which shall immediately attach on the moneys deposited in the fund, and shall be effective, binding, and enforceable against the state and any other

person asserting rights therein without need of any physical delivery, recordation, filing, or other action.

SEC. 12. Section 5023.5 is added to the Insurance Code, to read:

5023.5. There is hereby appropriated from the fund, without regard to fiscal year, any and all moneys necessary to pay (1) principal, (2) interest, (3) premium, if any, or (4) commitment, standby or availability fees, or charges in connection with any bonds issued pursuant to this article. The Treasurer shall advise the administrator and the Controller of amounts annually necessary to pay the principal, interest, premiums, and fees on bonds issued pursuant to this article, and those amounts shall not be available for expenditure for other purposes.

SEC. 13. Section 2695 of the Public Resources Code is amended to read:

2695. (a) On or before January 1, 1992, the board, in consultation with the State Geologist and the commission, shall develop all of the following:

(1) Guidelines for the preparation of maps of seismic hazard zones in the state.

(2) Priorities for mapping of seismic hazard zones. In setting priorities, the board shall take into account the following factors:

(A) The population affected by the seismic hazard in the event of an earthquake.

(B) The probability that the seismic hazard would threaten public health and safety in the event of an earthquake.

(C) The willingness of lead agencies and other public agencies to share the cost of mapping within their jurisdiction.

(D) The availability of existing information.

(3) Policies and criteria regarding the responsibilities of cities, counties, and state agencies pursuant to this chapter. The policies and criteria shall address, but not be limited to, the following:

(A) Criteria for approval of a project within a seismic hazard zone, including mitigation measures.

(B) The contents of the geotechnical report.

(C) Evaluation of the geotechnical report by the lead agency.

(4) Guidelines for evaluating seismic hazards and recommending mitigation measures.

(5) Any necessary procedures, including, but not limited to, processing of waivers pursuant to Section 2697, to facilitate the implementation of this chapter.

(b) In developing the policies and criteria pursuant to subdivision (a), the board shall consult with and consider the recommendations of an advisory committee, appointed by the board in consultation with the commission, composed of the following members:

(1) An engineering geologist registered in the state.

(2) A seismologist.

(3) A civil engineer registered in the state.

(4) A structural engineer registered in the state.

(5) A representative of city government, selected from a list

submitted by the League of California Cities.

(6) A representative of county government, selected from a list submitted by the County Supervisors Association of California.

(7) A representative of regional government, selected from a list submitted by the Council of Governments.

(8) A representative of the insurance industry.

(9) The Insurance Commissioner.

All of the members of the advisory committee shall have expertise in the field of seismic hazards or seismic safety.

(c) At least 90 days prior to adopting measures pursuant to this section, the board shall transmit or cause to be transmitted a draft of those measures to affected cities, counties, and state agencies for review and comment.

SEC. 14. Section 2699.5 of the Public Resources Code is amended to read:

2699.5. (a) There is hereby created the Seismic Hazards Identification Fund, as a special fund in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the division for the purposes of this chapter.

(b) Notwithstanding Section 5001 of the Insurance Code, one-half of 1 percent of the earthquake surcharge moneys received by the California Residential Earthquake Recovery Fund in any calendar year shall be transferred to the Seismic Hazards Identification Fund for the purposes of carrying out this chapter. This subdivision shall become operative only if Assembly Bill 3913 or Senate Bill 2902 of the 1989–90 Regular Session of the Legislature is enacted and takes effect.

SEC. 15. Notwithstanding paragraph (2) of subdivision (c) of Section 5002 of the Insurance Code, the sum of four hundred thirty thousand dollars ($430,000) is hereby appropriated from the Insurance Fund to the Department of Insurance for use during the 1990–91 and 1991–92 fiscal years as a loan for the purpose of planning, establishing, and implementing the Green, Hill, Areias, Farr California Residential Earthquake Recovery Act. On July 1, 1991, the Director of Finance shall authorize a loan from the Insurance Fund to the California Residential Earthquake Recovery Fund to finance operations and contract costs during the 1991–92 fiscal year until surcharges are received into the California Earthquake Recovery Fund by the Treasurer. All funds loaned shall be repaid to the Insurance Fund from the surcharge revenues deposited into the California Residential Earthquake Recovery Fund within two years from the date of the loan. Interest shall be paid on the funds loaned at the annual interest rate earned by the Pooled Money Investment Account commencing on the day the funds are loaned.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to eliminate technical problems in a statute vitally important for the protection of California homeowners against earthquake hazards, it is necessary for this bill to take effect immediately.

CHAPTER 105

An act to amend Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) relating to the Orange County Water District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1991 Filed with Secretary of State July 2, 1991.]

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

SECTION 1. Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

31.5. (a) Basin equity assessments, as well as production requirements and limitations on persons and operators within the district, are declared to be in furtherance of district activities in the protection of water supplies for users within the district which are necessary for the public health, welfare, and safety of the people of this state. The basin equity assessments, as well as the production requirements and limitations provided for in this act, are authorized to be levied upon, and applied to, all persons and producers within the district for the benefit of all who rely directly or indirectly upon the groundwater supplies of the district.

(b) The basin equity assessments levied pursuant to this act against all persons and operators within the district may be uniform or nonuniform in amount, as determined by the board of directors of the district, in order to effectuate the goals and purposes of the district. The proceeds of the basin equity assessments levied and collected shall be used to equalize the cost of water to all persons and operators within the district and to acquire water to replenish the groundwater supplies of the district.

(c) As used in this act:

(1) "Supplemental sources" means reclaimed water and sources of water outside the watershed of the Santa Ana River, excepting that portion of that watershed on and along Santiago Creek upstream of the downstream toe of the slope of the Villa Park Flood Control Dam, such as, but not limited to, water produced from the Metropolitan Water District of Southern California.

(2) "Basin production percentage" means the ratio that all water to be produced from groundwater supplies within the district bears to all water to be produced by persons and operators within the district from supplemental sources as well as from groundwater

within the district during the ensuing water year.

(d) The district shall annually order an investigation and report to be prepared by an engineer or engineers employed by the district. The investigation and report shall set forth all of the following information, together with such other information as the district may desire, relating to the preceding water year:

(1) Amount of water produced by persons and operators from groundwater within the district.

(2) Amount of water produced by persons and operators from supplemental sources.

(3) Amount of water produced by persons and operators from all other sources.

(4) Condition of groundwater supplies within the district.

(5) Information as to the probable availability of water from supplemental sources during the next succeeding fiscal year.

(6) The cost of producing water from groundwater within the district, including any replenishment assessment of the district.

(7) The cost of water produced within the district from supplemental sources.

(e) (1) On the second Wednesday in February of each year, the engineering investigation and report shall be delivered to the secretary of the district.

(2) The secretary shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of the report and of the public hearing to be held on the date of a meeting of the board of directors in March, in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding water supplies within the district shall be held.

(3) The notice, among other information which the district may provide, shall include an invitation to all persons or operators within the district to call at the offices of the district to examine the engineering investigation and report.

(4) The board of directors shall hold on the date of a meeting of the board in March of each year, a public hearing at which time any person or operator within the district or any person interested in the amounts and source from which all persons and operators produce their total supply of water as well as the estimated difference in the cost of water produced from groundwater within the district or supplemental sources, may in person, or by representative, appear and be heard.

(f) (1) On the date of a meeting of the board of directors in April of each year, the board of directors shall hold a public hearing for the purpose of determining the need and desirability of levying basin equity assessments and the amounts thereof, as well as the need for establishing production requirements and limitations and the extent of those requirements and limitations as to each person or operator within the district for the ensuing water year.

(2) In computing and fixing the amount of any basin equity

assessment for any person or operator within the district, the board may allow a percent not to exceed 10 percent, as shall be determined by the board of directors of the district, for delinquencies.

(3) Notice of the proposed hearing shall be published in the district pursuant to Section 6061 of the Government Code at least 10 days prior to the date set for the hearing.

(4) The notice shall set forth all of the following:

(A) That a report regarding water supplies within the district has been prepared.

(B) The date, time, and place of the proposed hearing.

(C) The board shall consider at the hearing the need and desirability of levying basin equity assessments and the amounts of those assessments, as well as establishing production requirements and limitations, on persons and operators within the district for the ensuing water year and surcharges in connection those requirements and limitations.

(D) An invitation to all persons and operators to appear at the public hearing and be heard in regard to any of the foregoing matters.

(g) (1) At the hearing, the board shall hear, take, and receive all competent evidence presented and offered in regard to the need for basin equity assessments, production requirements and limitations in general, and specifically, the extent of those requirements or limitations as to each person or operator within the district, the amount of the basin equity assessment which shall be levied against each person and operator for all purposes other than irrigation at uniform or nonuniform rates and may be levied against each person and operator for irrigation purposes at uniform or nonuniform rates for the ensuing water year and the amount of surcharges for production in excess of the basin production limitations.

(2) Subsequent to the hearing, the board may, by adopting a resolution upon the vote of eight members of the board, find and determine for the ensuing water year as follows:

(A) The estimated total amount of water to be produced by all persons and operators within the district from the groundwater within the district and the estimated amount to be produced by persons and operators from supplemental sources.

(B) The basin production percentage.

(C) That a basin equity assessment and production requirement and limitation from groundwater within the district are necessary for the protection of the water supply of the district.

(D) The surcharge, in an amount to be determined in the discretion of the board, for production in excess of the production limitations.

(E) The amount of the basin equity assessment to be levied against each person and operator in a dollar amount per acre-foot of water produced from the groundwater supply for all purposes other than irrigation, which need not be uniform as to each person or operator within the district, and that the amount is reasonable.

(F) The amount of the basin equity assessment to be levied against each person and operator in a dollar amount per acre-foot of water produced from the groundwater supply for irrigation purposes, which need not be uniform as to each person or operator within the district, and that the amount is reasonable.

(G) Production requirements or limitations and the surcharge for production in excess of the basin production limitations on persons and operators within the district shall be applicable during the ensuing water year. The requirements and limitations shall be on the amount of groundwater produced by those persons and operators expressed in a percentage of overall water produced or obtained by those persons or operators from groundwater within the district and from supplemental sources.

(H) That during the ensuing water year, upon the district giving published notice pursuant to Section 6061 of the Government Code in a newspaper of general circulation printed and published within the district at least 10 days prior to such a hearing, a subsequent public hearing may be held to modify the basin production percentage, any basin equity assessment, any production requirement or limitation, or the surcharge for production in excess of the production limitation established by the district. The modifications, if any, shall be effective on the date established by the board and the district. The district shall give notice of the modification 10 days prior to the effective date of the modification pursuant to subdivision (e).

(h) (1) The board may exclude all persons and operators who produced 25 acre-feet or less of water from groundwater within the district during the ensuing water year from the levy of the basin equity assessment and the production requirements and limitations.

(2) All findings and determinations made by the board pursuant to this section are final, conclusive, and binding upon all persons and parties.

(i) (1) The district shall thereafter, and in any event prior to July 1 in each year, give notice to each person or operator within the district. The notice shall include all of the following information:

(A) The amount of the basin equity assessment levied against that person or operator per acre-foot of water produced for purposes other than irrigation and the amount of the basin equity assessment levied against that person or operator per acre-foot of water produced for irrigation purposes.

(B) The basin production percentage.

(C) The production requirement or limitation upon the person or operator.

(D) The amount of surcharge imposed for production in excess of the basin production limitations.

(2) The notice required by this subdivision and the notice of any subsequent modifications may be sent by post card or by other first class mail with postage prepaid by the district.

(j) (1) Each person or operator within the district not excluded

from levy of a basin equity assessment and the production requirements and limitations, shall file with the district, on or before the 30th day of September of each year, a basin equity assessment report in the form prescribed by the district setting forth the total amounts of water produced from groundwater within the district and from supplemental sources during the preceding water year by the person or operator. The statement shall be verified by a written declaration under penalty of perjury.

(2) If the person or operator has been required by the district to produce, or has in fact produced, more water from groundwater within the district than the equivalent of the basin production percentage determined by the district, that person or operator shall pay to the district, on or before September 30, an amount determined by the number of acre-feet of water which the person or operator has produced from groundwater within the district in excess of the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment rate applicable to that person or operator, plus the amount of surcharge due for production in excess of the production limitations.

(3) If a person or operator, pursuant to the requirement the district, has produced from groundwater within the district less than of the equivalent of the basin production percentage, the person or operator, on or before the 30th day of November, shall be paid by the district from the basin equity assessment fund an amount determined by the number of acre-feet by which the production of the person or operator from groundwater as required by the district is less than the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment rate applicable to that person or operator, or if the production of the person or operator from groundwater is more than the production required by the district and less than the equivalent of the basin equity production percentage, then the person or operator shall be paid by the district an amount determined by the number of acre-feet by which the actual production of the person or operator from groundwater is less than the acre-foot equivalent of the basin production percentage multiplied by the basin equity assessment applicable to that person or operator.

(k) If any person or operator fails to pay, when due, the applicable basin equity assessment or surcharge due for production in excess of the production limitations, the district shall charge interest on the delinquent amount at the rate of 1 percent each month or fraction thereof for which the amount remains delinquent. Should any person or operator within the district fail to file a basin equity assessment report on or before the 30th day of September of any year, the district shall, in addition to charging interest, assess a penalty charge against that person or operator in the amount of 10 percent of the amount found by the district to be due.

(*l*) (1) The district may, from time to time, require other reports from persons and operators as necessary and desirable in the

application of the basin equity assessment procedures.

(2) Upon good cause shown, an amendment to any report required under this section may be filed or a correction of any report may be made within six months after the date the report was filed with the district.

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 Orange County Water District to equalize the cost of water to all persons and operators in the district, thereby protecting the public peace, health, and safety, it is necessary that this act take effect immediately.

CHAPTER 106

An act to amend Section 12921.4 of the Insurance Code, relating to insurance.

[Approved by Governor July 9, 1991. Filed with Secretary of State July 10, 1991.]

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

SECTION 1. Section 12921.4 of the Insurance Code is amended to read:

12921.4. (a) The commissioner shall, upon receipt of a written complaint with respect to the handling of an insurance claim or other obligation under a policy by an insurer or production agency, or alleged misconduct by an insurer or production agency, notify the complainant of the receipt of the complaint within 10 working days of receipt. Thereafter, the commissioner shall notify the complainant of the final action taken on his or her complaint within 30 days of the final action.

The department shall include, with each notification of final action, or, at a minimum, with a number of randomly selected notifications of final action sufficient to assure the validity of results, a complaint handling evaluation form. This form shall clearly and concisely seek an evaluation of the department's performance in handling the complainant's grievance. The areas of evaluation shall include, but not be limited to: whether the complaint was handled in a fair and reasonable manner, evaluated thoroughly and without bias; the time required for resolution of the complaint; whether the complaint was referred and, if so, whether it was referred within a satisfactory time; whether the staff involved in handling the complaint demonstrated an adequate knowledge of the issues involved in the complaint; whether the complainant was satisfied with the result of the department's intervention; and whether the

complainant would recommend the department's complaint handling services to others.

The commissioner shall, if deemed appropriate, notify insurers or production agencies against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the insurer in order to mediate the complaint. This section shall not be construed to give the commissioner power to adjudicate claims.

(b) The commissioner shall ascertain patterns of complaints by insurer, geographic area, insurance line, type of violation, and any other valid basis the commissioner may deem appropriate for further investigation, and periodically evaluate the complaint patterns to determine additional audit, investigative, or enforcement actions which may be taken by the commissioner, and report on all actions taken with respect to those patterns of complaints in his or her annual report to the Governor pursuant to Section 12922, and to the public. For the purposes of this subdivision, complaints mean those written complaints received by the commissioner under subdivision (a), and written complaints received by the commissioner from any other sources, alleging misconduct or unlawful acts by insurers or production agencies.

CHAPTER 107

An act to amend Section 42301.6 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 9, 1991. Filed with Secretary of State July 10, 1991.]

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

SECTION 1. Section 42301.6 of the Health and Safety Code is amended to read:

42301.6. (a) Prior to approving an application for a permit to construct or modify a source that may emit air contaminants located within 1,000 feet from the outer boundary of a school, the air pollution control officer shall prepare a public notice in which the proposed project or modification for which the application for a permit is made is fully described.

(b) The air pollution control officer shall, at the permit applicant's expense, distribute the public notice to the parents of children in any school within one-quarter mile of the source and to each address within a radius of 750 feet from the outer property line of the proposed new or modified source at least 30 days prior to the date final action on the application is to be taken by the officer. The officer shall review and consider all comments received during the 30 days after the notice is distributed, and shall include written responses to

the comments in the permit application file prior to taking final action on the application.

(c) Notwithstanding subdivision (b), an air pollution control officer may require the applicant to distribute the notice if the district had such a rule in effect prior to January 1, 1989.

(d) The requirements for public notice pursuant to subdivision (b) or a district rule in effect prior to January 1, 1989, are fulfilled if the air pollution control officer or applicant responsible for giving the notice makes a good faith effort to follow the procedures prescribed by law for giving the notice, and, in such circumstances, failure of any person to receive the notice shall not affect the validity of any permit subsequently issued by the officer.

(e) Nothing in this section shall be deemed to limit any existing authority of any district.

(f) The notice requirements of this section shall not apply if the air pollution control officer determines that the application to modify a source will result in a reduction of emissions of air contaminants.

CHAPTER 108

An act to amend Section 23790.5 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1991. Filed with Secretary of State July 11, 1991.]

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

SECTION 1. Section 23790.5 of the Business and Professions Code is amended to read:

23790.5. (a) It is the intent of the Legislature in enacting this section to ensure that local government shall not be preempted in the valid exercise of its land use authority pursuant to Section 23790, including, but not limited to, enacting an ordinance requiring a conditional use permit. It is also the intent of the Legislature to prevent the legislated prohibition of the concurrent retailing of beer and wine for off-premises consumption and motor vehicle fuel where the retailing of each is otherwise allowable.

(b) (1) No city, county, or city and county shall, by ordinance or resolution adopted on or after January 1, 1988, legislatively prohibit the concurrent retailing of motor vehicle fuel and beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows motor vehicle fuel and off-sale beer and wine to be retailed on separate sites.

(2) On and after January 1, 1989, no city, county, or city and county ordinance or resolution adopted prior to May 5, 1987, shall

have legal effect if it legislatively prohibits the concurrent retailing of motor vehicle fuel with beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows beer and wine and motor vehicle fuel to be retailed on separate sites.

(3) On and after July 1, 1988, no city, county, or city and county ordinance or resolution adopted on or after May 5, 1987, shall have legal effect if it legislatively prohibits the concurrent retailing of motor vehicle fuel with beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows beer and wine and motor vehicle fuel to be retailed on separate sites.

(4) This section shall not apply to a prohibition by a city, county, or city and county of the sale of beer and wine in conjunction with the sale of motor vehicle fuel if that prohibition occurs as a result of the prohibition of the combining of the sale of motor vehicle fuel with a broader class of products or uses which includes alcoholic beverages or beer and wine as a named or unnamed part of that larger class, if that prohibition was enacted before August 1, 1985.

(c) Subject to the restrictions and limitations of subdivision (b), this section shall not prevent a city, county, or city and county from denying permission, or granting conditional permission, to an individual applicant to engage in the concurrent retailing of motor vehicle fuel with beer and wine for off-premises consumption pursuant to a valid conditional use permit ordinance based on appropriate health, safety, or general welfare standards contained in the ordinance if that conditional use permit ordinance contains all of the following:

(1) A requirement for written findings.

(2) A provision for an administrative appeal if the governing body has delegated its power to issue or deny a conditional use permit.

(3) Procedures for notice of a hearing, conduct of a hearing, and an opportunity for all parties to present testimony.

(4) A requirement that the findings be based on substantial evidence in view of the whole record to justify the ultimate decision.

(d) Notwithstanding any other provision of law, establishments engaged in the concurrent sale of motor vehicle fuel with beer and wine for off-premises consumption shall, until January 1, 1994, abide by the following conditions:

(1) No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler as of January 1, 1988.

(2) No advertisement of alcoholic beverages shall be displayed at motor fuel islands.

(3) No sale of alcoholic beverages shall be made from a drive-in window.

(4) No display or sale of beer or wine shall be made from an ice tub.

(5) No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.

(6) Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.

The standards contained in this subdivision are minimum state standards which do not limit local regulation otherwise permitted under this section.

(e) Until January 1, 1994, if there is a finding that a licensee or his or her employee has sold any alcoholic beverages to a minor at an establishment engaged in the concurrent sale of motor vehicle fuel with beer and wine for off-premises consumption, the alcoholic beverage license at the establishment shall be suspended for a minimum period of 72 hours. For purposes of Section 23790, the effect of such a license suspension shall not constitute a break in the continuous operation of the establishment nor a substantial change in the mode or character of operation.

(f) The provisions of this section apply to charter cities.

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 continue in effect reasonable restrictions over the manner of operation of retailers who sell both motor vehicle fuel and beer and wine for off-premises consumption, it is necessary that this act take effect immediately.

CHAPTER 109

An act to amend Sections 56343 and 56505 of the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1991. Filed with Secretary of State July 11, 1991]

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

SECTION 1. Section 56343 of the Education Code is amended to read:

56343. An individualized education program team shall meet

whenever any of the following occurs:

(a) A pupil has received an initial formal assessment. The team may meet when a pupil receives any subsequent formal assessment.

(b) The pupil demonstrates a lack of anticipated progress.

(c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program.

(d) At least annually, to review the pupil's progress, the individualized education program, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of those persons specified in subdivision (b) of Section 56341. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

SEC. 2. Section 56505 of the Education Code is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. The hearing shall be conducted by a person knowledgeable in administrative hearings under contract with the department.

(b) The hearing shall be held at a time and place reasonably convenient to the parent and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws governing special education and administrative hearings under contract with the department.

(d) During the pendency of the hearing proceedings, including the actual state-level hearing, the pupil shall remain in his or her present placement unless the public agency and the parent agree otherwise.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written or electronic verbatim record of the hearing.

(5) The right to written findings of fact and the decision.

(6) The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least five days before the hearing.

(f) The use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) The hearing conducted pursuant to this section shall be completed and a written, reasoned decision mailed to all parties to the hearing within 45 days from the receipt by the superintendent

of the request for a hearing. Either party to the hearing may request the superintendent or his or her designee to grant a continuance. The continuance shall be granted upon a showing of good cause. Any continuance shall extend the time for rendering a final administrative decision for a period only equal to the length of the continuance.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) In decisions relating to the placement of individuals with exceptional needs, the person conducting the state hearing shall consider cost, in addition to all other factors that are considered.

(j) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction. During the pendency of any administrative or judicial proceeding conducted pursuant to Chapter 5 (commencing with Section 56500), unless the public education agency and the parents of the child agree otherwise, the child involved in the hearing shall remain in his or her present educational placement.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 17513 of the Government Code. 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 bring the California Education Code and the California State Plan for Special Education for fiscal years 1991–93 into compliance with the Code of Federal Regulations by June 30, 1991, so that the state will receive its federal grant entitlements for special education programs for fiscal year 1991–92, it is necessary that this act take effect immediately.

CHAPTER 110

An act to add Section 31 to the Business and Professions Code, to amend Sections 4370, 4390, 4390.3, 4390.5, 4390.12, and 4390.16 of, to add Section 4700.11 to, to add and repeal Section 4720.2, and to repeal, add, and repeal Section 4720.1 of, the Civil Code, to amend Sections 683.130, 683.310, and 1699 of the Code of Civil Procedure, to amend Sections 1255.7 and 2630 of the Unemployment Insurance Code, to amend Sections 193 11350, 11350.5, and 11478.5 of, and to add Sections 11350.6 and 11478.8 to, the Welfare and Institutions Code, relating to family law.

[Approved by Governor July 11, 1991 Filed with Secretary of State July 12, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) It is in the interest of the citizens of the State of California that increased efforts be undertaken to ensure that court orders for child and spousal support are enforced.

(b) Increased collection of support obligations will result in a decrease in the reliance on government assistance under the Aid to Families with Dependent Children (AFDC) program.

(c) It is in the interest of all parties affected by a support order that any disputes relating to compliance with that order be resolved as quickly and economically as possible and that a forum for that resolution be available and accessible.

SEC. 2. The Legislature also finds and declares all of the following:

(a) Unlike many financial abuses, including, but not limited to, late credit card payments and dishonored checks, state law does not provide for adequate penalties for the failure to pay child support.

(b) It is, therefore, the intent of the Legislature to encourage the payment of child support obligations by providing for significant financial penalties for the failure to pay child support.

SEC. 3. Section 31 is added to the Business and Professions Code, to read:

31. (a) As used in this section, "board" means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 11350.6 of the Welfare and Institutions Code.

(c) "Compliance with a judgment or order for support," has the

meaning given in paragraph (2) of subdivision (a) of Section 11350.6 of the Welfare and Institutions Code.

SEC. 4. Section 4370 of the Civil Code is amended to read:

4370. (a) During the pendency of any proceeding under this part, the court may order any party, except a governmental entity, to pay such amount as may be reasonably necessary for the cost of maintaining or defending the proceeding and for attorneys' fees; and from time to time and before entry of judgment, the court may augment or modify the original award for costs and attorneys' fees as may be reasonably necessary for the prosecution or defense of the proceeding or any proceeding related thereto, including after any appeal has been concluded. In respect to services rendered or costs incurred after the entry of judgment, the court may award such costs and attorneys' fees as may be reasonably necessary to maintain or defend any subsequent proceeding, and may augment or modify any award so made, including after any appeal has been concluded. Attorneys' fees and costs within the provisions of this subdivision may be awarded for legal services rendered or costs incurred prior, as well as subsequent, to the commencement of the proceeding. Any order for a party who is not the husband or wife of another party to the proceedings to pay attorneys' fees or costs shall be limited to an amount reasonably necessary to maintain or defend the action on the issues relating to that party.

(b) During the pendency of any proceeding under this part, an application for a temporary order making, augmenting, or modifying an award of attorneys' fees or costs or both shall be made by motion on notice or by an order to show cause, except that it may be made without notice by an oral motion in open court in either of the following cases:

(1) At the time of the hearing of the cause on the merits.

(2) At any time prior to entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure.

(c) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon determining an ability to pay, shall award reasonable attorneys' fees to a custodial parent, or any person to whom child support is owed pursuant to this section in any action to enforce an existing order for child support and in any action to enforce a penalty incurred pursuant to Section 4700.11.

(d) Notwithstanding any other provision of law, absent good cause to the contrary, the court, upon determining an ability to pay, shall award reasonable attorneys' fees to a supported spouse in any action to enforce an existing order for spousal support.

SEC. 5. 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; or an amount owing pursuant to Section 11350 of the Welfare and Institutions Code. It also includes past due support or arrearage when it exists.

(i) "Timely payment" means receipt of support payments by the obligee or assigned obligee within five days of the due date.

SEC. 6. 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 and shall include an amount to be paid toward the liquidation of any arrearage or past due support amount. 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, other than through a wage assignment or other mandatory process, 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 arrangement 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. 7. Section 4390.5 of the Civil Code is amended to read:

4390.5. (a) For support orders first issued or modified before July 1, 1990, this section provides a procedure for obtaining a wage assignment when the court in ordering support or modification of support did not issue a wage assignment. Any obligee seeking issuance of a wage assignment to enforce such a support order may use the procedure set forth in this section by filing an application, or by notice of motion or order to show cause, or pursuant to Section 4390.3.

Under this section, a wage assignment shall in any event be issued only upon an application signed under penalty of perjury by the obligee that the obligor is in default in support payments in a sum equal to the amount of support payable for one month, for any other occurrence specified by the court in the support order, or earlier by court order if requested by the district attorney or the obligor.

(b) In addition to any other penalty provided by law, the filing of the application with knowledge of the falsity of the declaration or notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure.

(c) Upon receipt of the application, the court shall issue, without notice to the obligor, an order requiring the obligor to assign to the obligee that portion of the earnings of the obligor due or to be due in the future as will be sufficient to pay the amount ordered by the court for support and shall include an amount to be paid toward the liquidation of any arrearage or past due support. The order shall operate as an assignment.

(d) In cases in which the order for support does not contain a provision for wage assignment, the application shall state that the obligee has given the obligor a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by first-class mail, postage prepaid, or personally served at least 15 days prior to the date of the filing of the application. The written notice of intent to seek a wage assignment required by this subdivision may be given at any time, including at the time of filing a petition or complaint in which support is requested or at any time subsequent thereto.

(e) The obligor may at any time waive the written notice required by this section.

SEC. 8. Section 4390.12 of the Civil Code is amended to read:

4390.12. (a) When an assignment or assignments include both current support and payments towards the liquidation of arrearages, priority shall be given first to the current child support obligation, then the current spousal support obligation, and thereafter to the liquidation of child then spousal support arrearages.

(b) Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, as specified in Section 706.031 of the Code of Civil Procedure.

SEC. 9. Section 4390.16 of the Civil Code is amended to read:

4390.16. (a) Upon receipt of a written request from a district attorney enforcing the obligation of parents to support their children

pursuant to Section 11475.1 of the Welfare and Institutions Code, every employer shall cooperate with and provide relevant employment and income information which the employer has in its possession, to the district attorney for the purpose of establishing, modifying, or enforcing the support obligation. No employer shall incur any liability for providing this information to the district attorney.

Relevant employment and income information shall include, but not be limited to, all of the following:

(1) Whether a named person has or has not been employed by an employer.

(2) The full name of the employee.

(3) The employee's last known residence address.

(4) The employee's date of birth.

(5) The employee's social security number.

(6) The dates of employment.

(7) All earnings paid to the employee during the preceding 12 months.

(8) Whether dependent health insurance coverage is available to the employee through employment.

The district attorney shall notify the employer of the district attorney case file number in making a request pursuant to this section. The written request shall include at least three of the following elements regarding the person who is the subject of the inquiry: (A) first and last name and middle initial, if known; (B) social security number; (C) driver's license number; (D) birth date; (E) last known address; or (F) spouse's name.

The district attorney shall send a notice that a request for this information has been made to the last known address of the person who is the subject of the inquiry.

(b) The state agency or the local agency, designated to enforce support obligations as required by federal law, shall allow employers to simplify the process of wage withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one court order in a consolidated check, accompanied by an itemized accounting providing names, social security number or other identifying number, and the amount attributable to each obligor.

(c) An employer which fails to provide relevant employment information to the district attorney within 20 days of receiving a request pursuant to subdivision (a) may be assessed a civil penalty of a maximum of five hundred dollars ($500), plus attorneys' fees and costs. Proceedings to impose the civil penalty shall be commenced by the filing and service of an order to show cause.

SEC. 10. Section 4700.11 is added to the Civil Code, to read:

4700.11. (a) Any person with a court order for child support, the payments on which are more than 30 days in arrears, may file and then serve a notice of delinquency, as described in this section. Except as provided in subdivision (d), any amount of child support

specified in a notice of delinquency that remains unpaid for more than 30 days after the notice of delinquency has been filed and served shall incur a penalty of 6 percent of the delinquent payment for each month that it remains unpaid, up to a maximum of 72 percent of the unpaid balance due.

(b) The notice of delinquency shall be signed under penalty of perjury by the support obligee; shall state the amount that the child support obligor is in arrears; shall set forth the installments of support due, the amounts, if any, that have been paid, and the balance due; and shall state that any unpaid installment of child support shall incur a penalty of 6 percent of the unpaid support per month until paid, to a maximum of 72 percent of the original amount of the unpaid support, unless the support arrearage is paid within 30 days of the date of service of the notice of delinquency.

(c) The notice of delinquency may be served personally or by certified mail or in any manner provided for service of summons.

(d) No penalties may be imposed pursuant to this section if, in the discretion of the court, each of the following conditions are met:

(1) Within a timely fashion after service of the notice of delinquency the support obligor files and serves a motion to determine arrearages and to show cause why the penalties provided in this section should not be imposed.

(2) At the hearing on the motion filed by the support obligor, the court finds that the support obligor has proved any of the following:

(A) The child support payments were not 30 days in arrears as of the date of service of the notice of delinquency and are not in arrears as of the date of the hearing.

(B) The support obligor suffered serious illness, disability, or unemployment which substantially impaired the ability of the support obligor to comply fully with the support order and the support obligor has made every possible effort to comply with the support order.

(C) The support obligor is a public employee and for reasons relating to fiscal difficulties of the employing entity the obligor has not received a paycheck for 30 or more days.

(D) It would not be in the interests of justice to impose a penalty.

(e) If the child support owed, or any arrearages, interest, or penalty remains unpaid more than 30 days after serving the notice of delinquency, the support obligee may file a motion to obtain a judgment on the amount owed, which shall be enforceable in any manner provided by law for the enforcement of judgments.

(f) At any hearing to set or modify the amount payable for the support of a minor child, the court shall not consider any penalties imposed under this section in determining the amount of current support to be paid.

(g) In the absence of a protective order prohibiting the support obligor from knowing the whereabouts of the child or children for whom support is payable, or otherwise excusing the requirements of this subdivision, the notice of delinquency shall include a current

address and telephone number of all of the children for whom support is due, and if different from that of the support obligee, the address at which court papers may be served upon the support obligee.

(h) A subsequent notice of delinquency may be served and filed at any time. Child support arrearages and ongoing installments listed on subsequent notices shall state that they have been listed on a previous notice. Any penalty due under this section shall not be greater than 6 percent per month of the original amount of support arrearages or support installment, nor may the penalties on any arrearage amount or support installment exceed 72 percent of the original amount due, regardless of whether or not the installments have been listed on more than one notice.

(i) Penalties due pursuant to this section may be enforced by the issuance of a writ of execution in the same manner as a writ of execution may be issued for unpaid installments of child support, as described in Section 4383, except that payment of penalties under this section may not take priority over payment of arrearages or current support.

(j) The Judicial Council shall adopt forms or notices for the use of the procedures provided by this section.

(k) This section shall apply only to installments of child support that are due on or after January 1, 1992.

(*l*) The district attorney shall enforce child support obligations utilizing the penalties provided for by this section to the extent permitted by federal law.

(m) "Support" for the purposes of this section means support as defined in subdivision (h) of Section 4390.

SEC. 11. Section 4720.1 of the Civil Code is repealed.

SEC. 12. Section 4720.1 is added to the Civil Code, to read:

4720.1. (a) (1) It is the intention of the Legislature to ensure that the State of California remains in compliance with federal regulations for child support guidelines. The Legislature therefore adopts the statewide guidelines set forth in Section 4720.2, to take effect on July 1, 1992.

(2) It is the intention of the Legislature that the courts shall adhere to the guidelines adopted pursuant to Section 4720.2 and shall depart from them only in exceptional circumstances. A parent's first and principal obligation is to support his or her minor child according to the parent's circumstances and station in life. In this regard, the Legislature recognizes that a parent's circumstances and station in life are dependent upon a variety of factors, including his or her earned and unearned income; earning capacity; assets; and the income of his or her subsequent spouse or nonmarital partner, to the extent that the obligated parent's basic living expenses are met by the spouse or other person, thus increasing the parent's disposable income.

(3) In recommending levels of child support pursuant to subdivision (b), the Judicial Council shall be guided by the legislative

intent that children share in their parents' standard of living.

(b) The Judicial Council shall study and submit a report to the Legislature on or before December 31, 1992, which shall include a proposal for legislation, regarding a system of permanent child support guidelines to comply with federal law. This report shall address the respective continuing roles of the Judicial Council and the Legislature in maintaining, amending, or otherwise managing the statewide child support guidelines.

(c) In developing guidelines, the Judicial Council shall consult with a broad cross-section of groups involved in child support issues, including, but not limited to, the following: custodial and noncustodial parents; representatives of established women's rights and fathers' rights groups; representatives of established organizations which advocate for the economic well-being of children; members of the judiciary, district attorney's offices, the Attorney General's office, and the State Department of Social Services; certified family law specialists; academicians specializing in family law; persons representing low-income parents; and persons representing recipients of Aid to Families with Dependent Children (AFDC) seeking child support services. The advisory committee shall be balanced by gender and geographic representation, to the extent possible.

(d) In developing the recommendations for the permanent guidelines the Judicial Council shall seek public comment on the guidelines.

(e) The Judicial Council shall conduct a review of the existing guidelines to determine what revisions, if any, are necessary to ensure that application of the existing guidelines results in appropriate child support award amounts. This determination shall be based on economic data on the cost of raising children and analysis of case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data shall be used to recommend revisions that ensure that deviations from the guidelines are limited. The Judicial Council shall report the results of this review to the Legislature and the State Department of Social Services on or before December 31, 1992. Thereafter, the Judicial Council shall conduct and report on the results of the required review at least every four years.

(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. 13. Section 4720.2 is added to the Civil Code, to read:

4720.2. (a) The statewide uniform guideline for determining child support awards is as follows: CS = K (NCN).

(b) (1) The components of the formula are as follows:

CS = child support amount.

K = adjustment factor for different levels of income.

NCN = noncustodial parent's net monthly disposable income.

TN = total net monthly disposable income of parties.

(2) To compute net disposable income, see paragraph (4) of subdivision (g).

(3) K changes as combined net monthly disposable income changes as follows:

Total Net Disposable Income Per Month	K
$0– 1,667	K = .26
$1,668– 4,999	K = .20 + 100/TN
$5,000–10,000	K = .16 + 300/TN
Over $10,000	K = .12 + 700/TN

(4) For more than one child, multiply CS by:

2 children	1.5
3 children	2
4 children	2.25
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(c) The court shall state on the record the net monthly disposable income of each parent.

(d) There shall be a rebuttable presumption affecting the burden of proof that 100 percent of the amount of child support established by the formula set forth in subdivision (a) is the correct amount of child support to be awarded subject to subdivision (e).

(e) The presumption of subdivision (d) may be rebutted by facts showing that application of the guideline would be unjust or inappropriate in a particular case because one or more of the following factors is found to be applicable by a preponderance of the evidence and the revised amount is in the best interests of the child or children:

(1) The parties have stipulated to a different amount of child support under subdivision (k).

(2) The rental value of the family residence in which the children for whose support the award is made are allowed to reside exceeds the mortgage payments, homeowner's insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount and shall be made pursuant to former Section 4728.5, prior to its repeal by Chapter 1493 of the Statutes of 1990, and applicable published appellate court decisions.

(3) A parent's subsequent spouse or nonmarital partner has income which helps meet that parent's basic living expenses, thus increasing the parent's disposable income.

(4) The child or children subject to the order are not receiving Aid to Families with Dependent Children and the custodial parent

has a higher income than the noncustodial parent. In such a case the court may order the custodial parent to pay support to the noncustodial parent or the court may reduce the amount of support paid by the noncustodial parent.

(5) The child or children subject to the order are not receiving Aid to Families with Dependent Children and the noncustodial parent has parenting time that results in substantial expenses to the noncustodial parent and substantial savings to the custodial parent. In such a case the court may reduce the amount of support paid by the noncustodial parent.

(6) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the child or children.

(7) Application of the guideline would be unjust or inappropriate due to special circumstances in the particular case. The court shall state on the record the facts constituting the special circumstances.

(f) If the court determines that the presumption provided for in subdivision (d) is rebutted by factors stated in subdivision (e), the court shall state its determination, and any factual basis therefore, in writing or on the record, including, but not limited to, the amount of support that would have been received under the guidelines and including a justification of why the order varies from the guidelines. The court shall make any other findings required by federal law.

(g) (1) The annual gross income of each parent means income from whatever source derived, except as specified in subparagraph (C) and includes, but is not limited to, all of the following:

(A) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and spousal support actually received from a person not a party to the order.

(B) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(C) In the discretion of the court, employee benefits or self-employment benefits, taking into consideration the benefit to the employee, any corresponding reduction in living expenses, and other relevant facts.

(2) The court may, in its discretion, consider the earning capacity of a parent in lieu of that parent's income, consistent with the best interests of the child.

(3) Annual gross income shall not include any income derived from child support payments actually received and income derived from any public assistance program, eligibility for which is based on a determination of need.

(4) The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable to the following items or other items permitted by this section:

(A) The state and federal income taxes attributed to the parent. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents. State and federal income taxes shall be those actually payable (not necessarily current withholding) after considering appropriate filing status, all available exclusions, deductions, and credits, and the actual tax effects of any deductible support in the present case.

(B) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(C) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(D) Deductions for health insurance premiums for the parent and for any children the parent has an obligation to support and state disability insurance premiums.

(E) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the award to be established by the court. In the absence of a court order, any child support actually being paid, not to exceed the amount established by these guidelines, for a natural or adopted child or children of the parent not residing in that parent's home, who is not the subject of the award to be established by the court, and of whom the parent has a duty of support.

(F) Job related expenses, if allowed by the court after consideration of whether the expenses are necessary, the benefit to the employee, and any other relevant facts.

(G) A hardship, as defined by former Section 4725, prior to its repeal by Chapter 1493 of the Statutes of 1990, and applicable published appellate court decisions exists. In the event a hardship exists, the amount of the hardship shall not be deducted from the amount of child support but shall be deducted from the income of the party to whom it applies. In applying any hardship under former subdivision (b) of Section 4725, the court shall use the formula provided for in that section and not any local formula in order to provide equity between competing child support orders.

(5) The annual net disposable income shall be divided by 12 to reflect the monthly net disposable income. The court may modify the monthly net disposable income figure thus obtained to reflect the actual or prospective earnings of the parties at the time the determination of support is made.

(h) Unless contrary to federal law, in the event the amount of support calculated by this section is less than the minimum amount mandated by the Agnos Child Support Standards Act of 1984, the

amount mandated by that act shall be used. As used in this section, the Agnos Child Support Standards Act of 1984 means the provisions of that act in effect immediately before the changes made by Chapter 1493 of the Statutes of 1990.

(i) The amounts in this subdivision, if ordered to be paid, are considered support.

(1) For the purposes of this subdivision, the net income of the parent paying child support shall be reduced by the amount of any child support paid by that parent under this section. The net income of the parent receiving child support shall not be increased by any amount of child support received under this section.

(2) The following expenses shall be added to the amount of child support calculated under subdivision (a):

(A) Child care costs, after any applicable tax credits, related to employment shared in accordance with the net income of the parties.

(B) Absent good cause to the contrary, health care and health insurance costs for the children not deducted from gross income under subdivision (g) and health care costs for the children shared in accordance with the net income of the parties.

(3) The following expenses may be added to the amount of child support calculated under subdivision (a):

(A) In the court's discretion and subject to the paying parent's ability to pay, costs related to the special educational or other needs of a child.

(B) Child care costs related to reasonably necessary education or training for employment skills shared in accordance with the net income of the parties.

(C) Travel expenses for visitation shared in accordance with the net income of the parties, unless this creates an unreasonable hardship on one parent. The court shall find on the record or make a written finding of any unreasonable hardship.

(4) Except where there is an assignment of rights pursuant to Section 11477 of the Welfare and Institutions Code, any payment ordered pursuant to this subdivision may be ordered paid directly to a provider of services.

(j) The court may adjust the child support award as appropriate to accommodate seasonal or fluctuating income of either parent.

(k) Unless applicable federal law prohibits, this section shall not impair the right of parties to enter stipulated agreements, except that the court shall not approve a stipulated agreement for a child support award unless all of the following conditions are met:

(1) The parties acknowledge that they are fully informed of their rights pursuant to this title and that the award is being agreed to without coercion or duress.

(2) The parties declare that (A) the agreement is in the best interests of the children involved and (B) their children's needs will be adequately met by the stipulated amount.

(3) The right to support has not been assigned to the county

pursuant to Section 11477 of the Welfare and Institutions Code, and no public assistance application is pending.

(*l*) If the parties to a stipulated agreement stipulate to a child award below the amount established by this section, no change of circumstances need be demonstrated to obtain a modification of the child support award to the applicable guideline level or above.

(m) Orders and stipulations otherwise in compliance with this guideline may designate as "family support" an unallocated total sum for support of the spouse and any children without specifically labeling all or any portion as "child support" so long as the amount is adjusted to reflect the effect of additional deductibility. The amount of the order shall be adjusted to maximize the tax benefits for both parents.

(n) In the event that the Legislature extends the operative date of this section beyond January 1, 1994, it is the intent of the Legislature that the uniform guidelines provided by this section shall be reviewed by the Legislature at least every four years and revised as appropriate to ensure that its application results in the determination of appropriate child support award amounts. The review shall include consideration of changes necessitated by applicable federal laws and regulations. If the operative date of this section is so extended, it is the intent of the Legislature that it shall establish the procedure for the initial review of the guidelines no later than October 1, 1994.

(o) 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. 14. Section 683.130 of the Code of Civil Procedure is amended to read:

683.130. (a) In the case of a lump-sum money judgment or a judgment for possession or sale of property, the application for renewal of the judgment may be filed at any time before the expiration of the 10-year period of enforceability provided by Section 683.020 or, if the judgment is a renewed judgment, at any time before the expiration of the 10-year period of enforceability of the renewed judgment provided by Section 683.120.

(b) Except as otherwise specified in subdivisions (c) and (d), in the case of a money judgment payable in installments, the application for renewal of the judgment may be filed:

(1) If the judgment has not previously been renewed, at any time as to past due amounts that at the time of filing are not barred by the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(2) If the judgment has previously been renewed, within the time specified by subdivision (a) as to the amount of the judgment as previously renewed and, as to any past due amounts that became due and payable after the previous renewal, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(c) Notwithstanding any other provision of law to the contrary, in the case of a money judgment payable in installments for the payment of child support or family support, the application for renewal of the judgment may be filed:

(1) If the judgment has not previously been renewed, at any time as to past due amounts if the child has not attained the age of 23 years and, thereafter, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(2) If the judgment has previously been renewed, within the time specified by subdivision (a) as to the amount of the judgment as previously renewed and, as to any past due amount that became due and payable after the previous renewal, at any time if the child has not attained the age of 23 years and, thereafter, at any time before the expiration of the 10-year period of enforceability provided by Sections 683.020 and 683.030.

(d) Any judgment for the payment of child support or family support, for which the enforcement of that support is sought by a writ of execution pursuant to Section 4383 of the Civil Code, may be renewed at any time within 10 years after it was made or entered or previously renewed. However, a judgment shall not be renewed if the application is filed within five years from the time the judgment was previously renewed.

SEC. 15. Section 683.310 of the Code of Civil Procedure is amended to read:

683.310. Except as otherwise provided in Section 4384.5 of the Civil Code, this chapter does not apply to judgments made, entered, or enforceable pursuant to the Family Law Act, Part 5 (commencing with Section 4000) of Division 4 of the Civil Code.

SEC. 16. Section 1699 of the Code of Civil Procedure is amended to read:

1699. (a) Except as specified in this section, 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. Except as specified in this section, 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 of a foreign order of support or assignment of wages in which to petition the court to vacate the registration or for other relief. In an action under this section there shall be no joinder of actions, coordination of actions, or cross- complaints and the claims or defenses shall be limited strictly to the identity of the obligor, the validity of the underlying foreign support order or foreign order for the assignment of wages, or the accuracy of the

obligee's statement of the amount of support remaining unpaid unless the amount has been previously established by a judgment or order. If the obligor does not so petition the court, the registered foreign support order or foreign order for the assignment of wages and all other documents filed pursuant to subdivision (a) of Section 1698.3 are 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 and the court finds that an appeal from the order is pending 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 and the court finds 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.

(d) Registration of an out-of-state order for the sole purpose of interstate wage withholding shall not confer jurisdiction on the court for any purpose other than income withholding.

SEC. 17. Section 1255.7 of the Unemployment Insurance Code is amended to read:

1255.7. (a) The State Department of Social Services shall notify the director whether an individual filing a claim for unemployment compensation after October 1, 1982, owes support obligations as defined under subdivision (h), and notify the department of any changes in the status of these individuals to ensure that the department has a current record.

(b) The department shall maintain and keep current a record of individuals who owe support obligations and who may have claims for unemployment compensation benefits.

(c) The department shall deduct and withhold support obligations as defined under subdivision (h) from any unemployment compensation payable to an individual who owes these obligations.

(d) Any amount deducted and withheld under subdivision (c) shall be paid by the department to the appropriate county or to the State Department of Social Services as the assigned payee, as stipulated by mutual agreement, in the interagency agreement between the department and the State Department of Social Services.

(e) Any amount deducted and withheld under subdivision (c) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State Department of Social Services.

(f) For purposes of subdivisions (a) to (e), inclusive,

"unemployment compensation" means any compensation payable under this division, except Part 2 (commencing with Section 2601), but including amounts payable by the department pursuant to an agreement under any federal unemployment compensation law.

(g) This section applies only if appropriate arrangements have been made for reimbursement by the State Department of Social Services for the administrative costs incurred by the Employment Development Department.

(h) For purposes of this section, "support obligations" means the child and related spousal support obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act and as that section may hereafter be amended. However to the extent "related spousal support obligations" may not be collected from unemployment compensation under federal law, those obligations shall not be included in the definition of support obligations under this section.

SEC. 18. Section 2630 of the Unemployment Insurance Code is amended to read:

2630. (a) The State Department of Social Services shall periodically notify the department of individuals who are certified, as provided in Section 11350.5 of the Welfare and Institutions Code, as having support obligations, as defined by subdivision (g) and notify the department of any changes in the status of these individuals to ensure that the department has a current record.

(b) Upon receipt of the notifications referred to in subdivision (a), the department shall determine whether the individuals have claims for unemployment compensation disability benefits, either with the department or under an approved voluntary plan.

(c) If the department determines that an individual referred to in subdivision (a) has a claim for unemployment compensation disability benefits with an approved voluntary plan, it shall notify the voluntary plan payer. When the State Department of Social Services notifies the department of any changes in the individual's status as to his or her support obligations, the department shall in turn notify the voluntary plan payer. Upon notification from the department, the voluntary plan payer shall deduct and withhold the amounts specified in Section 11350.5 of the Welfare and Institutions Code from the unemployment compensation disability benefits that would otherwise be payable to the individual. For each withholding, the voluntary plan payer shall deduct an amount which represents the amount withheld for support obligations and may also deduct an administrative fee representing actual costs, not to exceed two dollars ($2). In no event shall the withholding and the administrative fee exceed 25 percent or a lesser amount as specified in subdivision (e) of Section 11350.5 of the Welfare and Institutions Code. The voluntary plan payer shall pay the amounts for support deducted and withheld pursuant to this section to the appropriate certifying county.

(d) The department shall maintain a current record of individuals

certified as owing support obligations. If the department determines that the individual has a claim for unemployment compensation disability benefits with the department, it shall deduct and withhold the amounts specified in Section 11350.5 of the Welfare and Institutions Code from the unemployment compensation disability benefits that would otherwise be payable to the individual. The department shall periodically pay the amounts deducted and withheld to the appropriate county or to the State Department of Social Services as the assigned payee, as stipulated by mutual agreement, in the interagency agreement between the department and the State Department of Social Services.

(e) Amounts deducted and withheld from an individual's unemployment compensation disability benefits in accordance with subdivision (c) or (d) shall for all purposes be treated as if it were paid to the individual and then paid by the individual to the State Department of Social Services or the appropriate certifying county.

(f) This section shall apply only if appropriate arrangements are made for the State Department of Social Services to reimburse the department for its administrative costs for performing the functions required of it by this section.

(g) For purposes of this section, "support obligations" means the child and related spousal support obligations described in the state plan approved pursuant to Section 454 of the Social Security Act and as that section may hereafter be amended. However, to the extent "related spousal support obligations" may not be collected from unemployment compensation under federal law, those obligations shall not be included in the definition of support obligations under this section.

SEC. 19. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) A parent of a minor, the estate of a parent, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to an order of the juvenile court. The liability of these persons and estates shall be a joint and several liability.

(b) It shall be the responsibility of a county to demonstrate to any person against whom it seeks to enforce the liability established by this section, that the charges it seeks to impose are limited to the reasonable costs of support of the minor and that these charges exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. Except in those placements of a minor in which an AFDC-FC grant is made, the county shall separately itemize the cost of each major component, such as food, clothing, and medical expense, contained within the costs of support of the minor, for any person against whom the county seeks to impose liability under this section. Nothing in this section shall preclude the district attorney from seeking reimbursement of AFDC-FC costs pursuant to Section 11350.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to insure reasonable uniformity throughout the state in the level of liability being imposed, and to insure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income. Except in those placements of a minor in which an AFDC-FC grant is made, and except as provided in paragraphs (1), (2), and (3), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

(2) No cost for medical expenses shall be imposed by the county until the county has first exhausted any eligibility the minor may have under private insurance coverage, standard or medically indigent Medi-Cal coverage, and the Robert W. Crown California Children's Services Act (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

(3) In calculating the cost of medical expenses, the county shall not charge in excess of 100 percent of the AFDC fee for service average Medi-Cal payment for that county for that fiscal year as calculated by the State Department of Health Services; however, if a minor has extraordinary medical or dental costs that are not met under any of the coverages listed in paragraph (2), the county may impose these additional costs.

SEC. 20. Section 11350 of the Welfare and Institutions Code is amended to read:

11350. (a) In any case of separation or desertion of a parent or parents from a child or children which results in aid under this chapter being granted to such family, the noncustodial parent or parents shall be obligated to the county for an amount equal to the following:

(1) The amount specified in an order for the support and maintenance of such family issued by a court of competent jurisdiction; or in the absence of such court order, the amount specified in paragraph (2).

(2) The amount of support which would have been specified in an order for the support and maintenance of the family during the period of separation or desertion provided that any such amount in excess of the aid paid to the family shall not be retained by the county, but disbursed to the family.

(3) The obligation shall be reduced by any amount actually paid by such parent during the period of separation or desertion for the support and maintenance of such family.

(b) The district attorney shall take appropriate action pursuant to this section in the superior court of the county which provided aid under this chapter.

(c) The amount of the obligation established under paragraph (2) of subdivision (a) shall be determined by using the appropriate child support guidelines currently in effect. If one parent remains as a custodial parent, the guideline support shall be computed in the normal manner. If neither parent remains as a custodial parent, the support shall be computed by combining the noncustodial parents' incomes and placing the figure obtained in the column for noncustodial parent. A zero shall be placed in the column for the custodial parent and the amount of guideline support resulting shall be proportionately shared between the parents as directed by the court. The parents shall pay the amount of support specified in the support order to the district attorney.

(d) The court may order the defendant to pay the county attorney fees and court costs, based on such defendant's reasonable ability to pay, in any proceeding brought by the county pursuant to this section.

In making the determination of the defendant's reasonable ability to pay attorney's fees and court costs under this section, the court shall be limited to the following considerations:

(1) The wealth and income of the defendant.

(2) The current ability of the defendant to earn.

(3) The age of the defendant.

SEC. 21. Section 11350.5 of the Welfare and Institutions Code is amended to read:

11350.5. (a) As authorized by subdivision (d) of Section 704.120 of the Code of Civil Procedure, the following actions shall be taken in order to enforce support obligations which are not being met. Whenever a support judgment or order has been rendered by a court of this state against an individual who is entitled to any unemployment compensation benefits or unemployment compensation disability benefits, the district attorney may file a certification of support judgment or support order with the State Department of Social Services, verifying under penalty of perjury that there is or has been a judgment or an order for support with sums overdue thereunder. The department shall periodically present and keep current, by deletions and additions, a list of the certified support judgments and orders and shall periodically notify the Employment Development Department of individuals certified as owing support obligations.

(b) If the Employment Development Department determines that an individual who owes support may have a claim for unemployment compensation disability insurance benefits under a voluntary plan approved by the Employment Development

Department in accordance with Chapter 6 (commencing with Section 3251) of Part 2 of Division 1 of the Unemployment Insurance Code, the Employment Development Department shall immediately notify the voluntary plan payer. When the department notifies the Employment Development Department of changes in an individual's support obligations, the Employment Development Department shall promptly notify the voluntary plan payer of these changes. The Employment Development Department shall maintain and keep current a record of individuals who owe support obligations who may have claims for unemployment compensation or unemployment compensation disability benefits.

(c) Notwithstanding any other provision of law, the Employment Development Department shall withhold the amounts specified below from the unemployment compensation benefits or unemployment compensation disability benefits of individuals with unmet support obligations. The Employment Development Department shall periodically forward them to the State Department of Social Services for distribution to the appropriate certifying county.

(d) Notwithstanding any other provision of law, during the payment of unemployment compensation disability benefits to an individual, with respect to whom the Employment Development Department has notified a voluntary plan payer that the individual has a support obligation, the voluntary plan payer shall withhold the amounts specified below from the individual's unemployment compensation disability benefits and shall periodically forward them to the appropriate certifying county.

(e) The amounts withheld in subdivisions (c) and (d) shall be equal to 25 percent or each weekly unemployment compensation benefit payment or periodic unemployment compensation disability benefit payment, rounded down to the nearest whole dollar, which is due the individual identified on the certified list. However, the amount withheld may be reduced to a lower whole dollar amount through a written agreement between the individual and district attorney's office or through an order of the court.

(f) The State Department of Social Services shall ensure that the appropriate certifying county shall resolve any claims for refunds in the amounts overwithheld by the Employment Development Department or voluntary plan payer.

(g) No later than the time of the first withholding, the individuals who are subject to the withholding shall be notified by the payer of benefits of all of the following:

(1) That his or her unemployment compensation benefits or unemployment compensation disability benefits have been reduced by a court-ordered support judgment or order pursuant to this section.

(2) The address and phone number of the district attorney's office which submitted the certificate of support judgment or order.

(h) The individual may ask the appropriate court for an equitable

division of the individual's unemployment compensation or unemployment compensation disability amounts withheld to take into account the needs of all the persons the individual is required to support.

(i) The State Department of Social Services and the Employment Development Department shall enter into any agreements necessary to carry out this section.

(j) For purposes of this section, "support obligations" means the child and related spousal support obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act and as that section may hereafter be amended. However, to the extent "related spousal support obligation" may not be collected from unemployment compensation under federal law, those obligations shall not be included in the definition of support obligations under this section.

SEC. 22. Section 11350.6 is added to the Welfare and Institutions Code, to read:

11350.6. (a) As used in this section:

(1) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar of California, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(2) "Compliance with a judgment or order for support" means that the obligor is no more than 30 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage, or in making periodic payments on a reimbursement for public assistance, as set forth in a judgment or order for support.

(b) The following actions may be taken to enforce support obligations which are not being met. Whenever a support judgment or order has been rendered by, or registered in, a court of this state, the district attorney may file a certification of support judgment or support order with the State Department of Social Services, verifying under penalty of perjury that there is or has been a judgment or an order for support and that the obligor is not in compliance with the judgment or order for support. The certification shall contain the name, social security number, and last known address of the support obligor. The district attorney, on a monthly basis, shall update this information and submit it to the State Department of Social Services.

(c) The State Department of Social Services shall consolidate the lists received from the various district attorney offices and, subject to subdivisions (e), (f), and (g), shall notify any board which is responsible for the regulating of business or professional licenses, certificates, or registrations of individuals certified as owing support obligations. The list shall include the name and address of each local agency which submitted information for the list.

(d) Promptly after receiving the certification pursuant to subdivision (b), the Department of Social Services shall serve notice of the filing on the support obligor. Service shall be made personally or by mail. The notice shall inform the support obligor of the intent to submit his or her name to any appropriate board. The notice shall inform the obligor that any failure to respond to the notice in writing within 60 days from the date of the mailing of the notice shall result in the submission of his or her name to any appropriate board. The response shall be sent to the district attorney's office which submitted the obligor's name to the State Department of Social Services.

(e) Any district attorney who files a certification pursuant to this section shall establish procedures to allow a support obligor to object to the submission of his or her name to to any board, to have the underlying debt and any relevant defenses investigated, and to receive information on the process of obtaining a modification of a support order or assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(f) A support obligor who has requested and obtained a review by the district attorney pursuant to subdivision (e) may petition the superior court in the county of the submitting district attorney for a judicial review of the decision to certify his or her name pursuant to this section. The time for filing of the petition for judicial review shall be within 30 days of the mailing of the notice of the results of the review by the district attorney to the support obligor. The judicial review shall be limited to a determination of the following issues:

(1) Whether there is a support judgment or order.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order for support.

(g) No name shall be submitted by the State Department of Social Services to any board until after the time period for the obligor's response to the notice provided for in subdivision (d) has lapsed and the district attorney has notified the State Department of Social Services that the obligor has failed to respond, or, if the obligor has availed himself or herself of the procedures provided in subdivisions (e) and (f), until after judgment on the petition for judicial review is entered. If an obligor uses the procedures provided in subdivision (e), but does not file a petition for judicial review pursuant to subdivision (f), his or her name may be submitted to any board after the time for filing a petition for judicial review has lapsed.

(h) Prior to the issuance or renewal of a license, certificate, or registration for a person to engage in a business or profession, any board shall determine whether the person applying for the license, certificate, or registration is on the most recent monthly list. The board shall not issue or renew such a license, certificate, or registration to any person whose name is on the most recent monthly list until the board receives a copy of the release specified in

subdivision (j).

(i) The board shall notify an applicant subject to subdivision (h), by first-class mail return receipt requested, that the applicant's name appears on the monthly list. The notice shall include the address and phone number of the district attorney's office which submitted the certification of support judgment of order, and of the necessity of obtaining a release from that district attorney's office.

(j) The State Department of Social Services shall prescribe and furnish release forms for use by the boards. When the obligor is in compliance with the judgment or order for support, the district attorney or local responsible agency shall issue to the obligor a release stating that the person is in compliance with the judgment or order of support for which certification was provided under subdivision (b). If any dispute relating to compliance exists, the relevant procedures provided in subdivisions (e) and (f) shall be applicable.

The issuance of a release shall operate to remove the name of the support obligor from the certified list as specified in subdivision (c), unless a district attorney, pursuant to subdivision (a), certifies subsequent to the issuance of a release that the support obligor is once again not in compliance with a judgment or order for support.

(k) The board, upon request of the person applying for the registration, license, or certification whose name appears on the certified list prepared by the State Department of Social Services, shall issue to that applicant a temporary registration, license, or certification valid for a period not to exceed 120 days. If, upon the expiration of the temporary registration, license, or certification, the applicant is in compliance with all judgments or orders for support for which certification has been filed pursuant to subdivision (b), the board shall issue the title, license, certification, or permit to the applicant.

(*l*) The State Department of Social Services shall adopt regulations necessary to implement the requirements of this section.

(m) The State Department of Social Services may enter into any agreements with the boards necessary to carry out this section, to the extent that the department has determined that it is cost-effective.

(n) Nothing in this section shall be deemed to limit the filing by a support obligor of a petition for an order to show cause to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order.

SEC. 23. Section 11478.5 of the Welfare and Institutions Code is amended to read:

11478.5. (a) There is in the Department of Justice the California Parent Locator Service and Central Registry which shall collect and disseminate all of the following, with respect to any parent who has deserted or abandoned any child, spouse, or former spouse, and with respect to any parent who has abducted any child:

(1) The full and true name of such parent together with any known aliases.

(2) Date and place of birth.
(3) Physical description.
(4) Social security number.
(5) Employment history and earnings.
(6) Military status and Veterans Administration or military service serial number.
(7) Last known address, telephone number, and date thereof.
(8) Driver's license number, driving record, and vehicle registration information.
(9) Criminal, licensing, and applicant records and information.
(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and the address, telephone number, and social security information obtained from a public utility that may be of assistance in locating the alleged abducting or absent parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 11475.2.

(B) For purposes of this subdivision "income tax return information" means all of the following regarding the taxpayer:
(i) Assets.
(ii) Credits.
(iii) Deductions.
(iv) Exemptions.
(v) Identity.
(vi) Liabilities.
(vii) Nature, source, and amount of income.
(viii) Net worth.
(ix) Payments.
(x) Receipts.
(xi) Address.
(xii) Social security number.

(b) To effectuate the purposes of this section, the California Parent Locator Service and Central Registry shall, to the extent necessary, utilize the federal parent locator service, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and the same are authorized to provide that assistance and data which will enable the Department of Justice and public agencies to carry out their powers and duties to locate the parents, spouses, and former spouses, and to identify their assets, to establish a parent and child relationship, to enforce their liability for child or spousal support of their children, for any other obligations incurred on behalf of their children, and to locate and return abducted children to their parents.

(c) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California

Parent Locator Service and Central Registry may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, and social security number of customers of the public utility, to the extent that this information is stored within the computer data base of the public utility.

(2) In order to protect the privacy of utility customers, a request to a public utility for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry and approved by all of the public utilities.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry.

(C) Contain at least three of the following data elements regarding the person sought:

(i) First and last name, and middle initial, if known.

(ii) Social security number.

(iii) Driver's license number.

(iv) Birth date.

(v) Last known address.

(vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry shall ensure that each public utility has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(3) The public utility may charge a fee to the California Parent Locator Service and Central Registry for each search performed pursuant to this subdivision to cover the actual costs to the public utility for providing this information.

(4) No public utility, or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(d) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Justice, the central registry of this state and other states as defined by federal law and regulations, district attorneys, probation departments, locator services of other states, the federal parent locator service and official child support enforcement agencies, the county department administering aid to families with dependent children, and courts or local agencies having jurisdiction in support, custody, abduction, adoption, dependency, or abandonment proceedings or actions, or reimbursement proceedings for the support of juveniles who are in out-of-home

placement for the purposes set out in Section 11478 and this section.

(e) (1) At no time shall any information received by the California Parent Locator Service and Central Registry be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 11478, this section, or any other provision of law.

(2) This subdivision shall not affect the right to discovery between parties in any action to establish, modify, or enforce child support, spousal support, or family support.

(f) (1) The Department of Justice, in consultation with the State Department of Social Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry.

(2) The Department of Justice, in consultation with the State Department of Social Services and the Public Utilities Commission, shall develop procedures for obtaining the information described in subdivision (c) from public utilities, and for compensating the public utilities for providing that information.

(g) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 24. Section 11478.8 is added to the Welfare and Institutions Code, to read:

11478.8. (a) Upon receipt of a written request from a district attorney enforcing the obligation of parents to support their children pursuant to Section 11475.1, every employer and labor organization shall cooperate with and provide relevant employment and income information which they have in their possession to the district attorney for the purpose of establishing, modifying, or enforcing the support obligation. No employer or labor organization shall incur any liability for providing this information to the district attorney.

Relevant employment and income information shall include, but not be limited to, all of the following:

(1) Whether a named person has or has not been employed by an employer or whether a named person has or has not been employed to the knowledge of the labor organization.

(2) The full name of the employee or member.

(3) The employee's or member's last known residence address.

(4) The employee's or member's date of birth.

(5) The employee's or member's social security number.

(6) The dates of employment.

(7) All earnings paid to the employee or member during the preceding 12 months.

(8) Whether the dependent health insurance coverage is available to the employee through employment or membership in the labor organization.

The district attorney shall notify the employer and labor organization of the district attorney case file number in making a request pursuant to this section. The written request shall include at least three of the following elements regarding the person who is the

subject of the inquiry: (A) first and last name and middle initial, if known; (B) social security number; (C) driver's license number; (D) birth date; (E) last known address; or (F) spouse's name.

The district attorney shall send a notice that a request for this information has been made to the last known address of the person who is the subject of the inquiry.

(b) An employer or labor organization which fails to provide relevant employment information to the district attorney within 20 days of receiving a request pursuant to subdivision (a) may be assessed a civil penalty of a maximum of five hundred dollars ($500), plus attorneys' fees and costs. Proceedings to impose the civil penalty shall be commenced by the filing and service of an order to show cause.

(c) "Labor organization," for the purposes of this section means a labor organization as defined in Section 1117 of the Labor Code or any related benefit trust fund covered under the federal Employee Retirement Income Security Act of 1974 (Chapter 18 (commencing with Section 1001) of Title 29 of the United States Code).

(d) Any reference to the district attorney in this section shall apply only when the district attorney is otherwise ordered or required to act pursuant to existing law. Nothing in this section shall be deemed to mandate additional enforcement or collection duties upon the district attorney beyond those imposed under existing law on the effective date of this section.

SEC. 25. The State Department of Social Services shall conduct a study of the feasibility of increasing child support collections by establishing paternity through the following methods:

(a) Requiring hospitals to notify the local district attorney's office when a birth certificate is filed without the signature of both parents.

(b) Requiring the local district attorney's office to investigate within six months of the filing of a birth certificate that is filed without the signature of both parents in order to establish paternity.

The objective of this strategy is to reduce the percentage of Aid to Families with Dependent Children (AFDC) cases and non-AFDC cases in which paternity must be established before the district attorney can obtain a child support order.

The study shall address the potential cost and the potential savings in child support collections which might occur as a result of this strategy. The State Department of Social Services shall consult with the Senate Health and Human Services Committee, the Assembly Human Services Committee, the Senate Office of Research, and the Assembly Office of Research.

The study shall be submitted to the Legislature no later than September 1, 1992.

SEC. 26. It is the intent of the Legislature that California participate in the so-called federal Parent's Fair Share pilot program pursuant to the Family Support Act of 1988 (P.L. 100-485) to the extent that counties are interested in participating in the pilot program. The State Department of Social Services shall provide

technical assistance to counties that are interested in participating in the pilot and work with the federal government to ensure California's participation.

SEC. 27. 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. 28. 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. 29. This act shall not become operative unless and until Senate Bill 724 is enacted.

CHAPTER 111

An act to amend Sections 1201, 6106.4, 10103, 10104, 10105, 10106, 10201, 10204, 10205, 10206, 10207, 10208, 10209, 10210, 10211, 10212, 10214, 10215, 10217, 10218, 10219, 10220, 10221, 10301, 10303, 10304, 10305, 10307, 10308, 10309, 10310, 10401, 10402, 10403, 10404, 10405, 10406, 10407, 10501, 10503, 10504, 10505, 10506, 10507, 10508, 10509, 10510, 10511, 10512, 10513, 10514, 10515, 10516, 10517, 10518, 10519, 10520, 10521, 10522, 10523, 10524, 10525, 10526, 10527, 10528, 10529, 10531, and 10532 of, and to add Section 10311 to, the Commercial Code, relating to commercial law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1991. Filed with Secretary of State July 15, 1991.]

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

SECTION 1. Section 1201 of the Commercial Code is amended to read:

1201. Subject to additional definitions contained in the subsequent divisions of this code which are applicable to specific divisions or chapters thereof, and unless the context otherwise requires, in this code:

(1) "Action" in the sense of a judicial proceeding includes

recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this code (Sections 1205 and 2208). Whether an agreement has legal consequences is determined by the provisions of this code, if applicable; otherwise by the law of contracts (Section 1103). (Compare "contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and which, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "bill of lading" is conclusive evidence of such intention. "Bill of lading" includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or mineralhead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for, or in total or partial satisfaction of, a money debt.

(10) "Conspicuous." A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous."

Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this code and any other applicable rules of law. (Compare "agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, compress receipt, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. To be a document of title, a document shall purport to be issued by a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this code to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or a certificated investment security drawn, issued or indorsed to him or her or to his or her order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary course of business or cannot pay his or her debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or

adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when any of the following occurs:

(a) He or she has actual knowledge of it.

(b) He or she has received a notice or notification of it.

(c) From all the facts and circumstances known to him or her at the time in question, he or she has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when any of the following occurs:

(a) It comes to his or her attention.

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his or her regular duties or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this division.

(30) "Person" includes an individual or an organization. (See Section 1102.)

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved

party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) (a) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to Division 9 (commencing with Section 9101). The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Division 9 (commencing with Section 9101). Unless a consignment is intended as security, reservation of title thereunder is not a "security interest," but a consignment in any event is subject to the provisions on consignment sales (Section 2326).

(b) Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods,

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(c) A transaction does not create a security interest merely because it provides that

(i) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(ii) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(iii) The lessee has an option to renew the lease or to become the owner of the goods,

(iv) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market

rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(v) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) For purposes of this subdivision (37):

(i) Additional consideration is not nominal if (A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(ii) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(iii) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending. When a writing or notice is required to be sent by registered or certified mail, proof of mailing is sufficient, and proof of receipt by the addressee is not required unless the words "with return receipt requested" are also used.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3303, 4208 and 4209), a person gives "value" for rights if he or she acquires them in any of the following ways:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection.

(b) As security for, or in total or partial satisfaction of, a preexisting claim.

(c) By accepting delivery pursuant to a preexisting contract for purchase.

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a document evidencing the receipt of goods for storage issued by a warehouseman (Section 7102), and which, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "warehouse receipt" is conclusive evidence of such intention.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

SEC. 1.2. Section 1201 of the Commercial Code is amended to read:

1201. Subject to additional definitions contained in the subsequent divisions of this code which are applicable to specific divisions or chapters thereof, and unless the context otherwise requires, in this code:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this code (Sections 1205 and 2208). Whether an agreement has legal consequences is determined by the provisions of this code, if applicable; otherwise by the law of contracts (Section 1103). (Compare "contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and which, by its terms, evidences the intention of the issuer that the person entitled under the

document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "bill of lading" is conclusive evidence of such intention. "Bill of lading" includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or mineralhead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for, or in total or partial satisfaction of, a money debt.

(10) "Conspicuous." A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this code and any other applicable rules of law. (Compare "agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, compress receipt, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person

entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. To be a document of title, a document shall purport to be issued by a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this code to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder," with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder," with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary course of business or cannot pay his or her debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has "notice" of a fact when any of the following occurs:

(a) He or she has actual knowledge of it.

(b) He or she has received a notice or notification of it.

(c) From all the facts and circumstances known to him or her at the time in question, he or she has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not the other actually comes

to know of it. A person "receives" a notice or notification when any of the following occurs:

(a) It comes to his or her attention.

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his or her regular duties or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this division.

(30) "Person" includes an individual or an organization. (See Section 1102.)

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) (a) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to Division 9 (commencing with Section 9101). The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with Division 9 (commencing with Section 9101). Unless

a consignment is intended as security, reservation of title thereunder is not a "security interest," but a consignment in any event is subject to the provisions on consignment sales (Section 2326).

(b) Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods,

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(c) A transaction does not create a security interest merely because it provides that

(i) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(ii) The lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(iii) The lessee has an option to renew the lease or to become the owner of the goods,

(iv) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(v) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) For purposes of this subdivision (37):

(i) Additional consideration is not nominal if (A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the

option is not exercised;

(ii) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(iii) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending. When a writing or notice is required to be sent by registered or certified mail, proof of mailing is sufficient, and proof of receipt by the addressee is not required unless the words "with return receipt requested" are also used.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3303, 4208 and 4209), a person gives "value" for rights if he or she acquires them in any of the following ways:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection.

(b) As security for, or in total or partial satisfaction of, a preexisting claim.

(c) By accepting delivery pursuant to a preexisting contract for purchase.

(d) Generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a document evidencing the receipt of goods for storage issued by a warehouseman (Section

7102), and which, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold and dispose of the document and the goods it covers. Designation of a document by the issuer as a "warehouse receipt" is conclusive evidence of such intention.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

SEC. 1.5. Section 6106.4 of the Commercial Code is amended to read:

6106.4. In any case where the notice of a bulk sale subject to Section 6106.2 states that claims may be filed with an escrow agent, the intended buyer shall deposit with the escrow agent the full amount of the purchase price or consideration. If, at the time the bulk sale is otherwise ready to be consummated, the amount of cash deposited or agreed to be deposited at or prior to consummation in the escrow is insufficient to pay in full all of the claims filed with the escrow agent, the escrow agent shall do each of the following:

(a) (1) Delay the distribution of the consideration and the passing of legal title for a period of not less than 25 days nor more than 30 days from the date the notice required in paragraph (2) is mailed.

(2) Within five business days after the time the bulk sale would otherwise have been consummated, send a written notice to each claimant who has filed a claim stating the total consideration deposited or agreed to be deposited in the escrow, the name of each claimant who filed a claim against the escrow and the amount of each claim, the amount proposed to be paid to each claimant, the new date scheduled for the passing of legal title pursuant to paragraph (1) and the date on or before which distribution will be made to claimants which shall not be more than five days after the new date specified for the passing of legal title.

(3) If no written objection to the distribution described in the notice required by paragraph (2) is received by the escrow agent prior to the new date specified in the notice for the passing of legal title, the escrow agent shall not be liable to any person to whom the notice required by paragraph (2) was sent for any good faith error that may have been committed in allocating and distributing the consideration as stated in the notice.

(b) Distribute the consideration in the following order of priorities:

(1) All obligations owing to the United States, to the extent given priority by federal law.

(2) Secured claims, including statutory and judicial liens, to the extent of the consideration fairly attributable to the value of the properties securing the claims and in accordance with the priorities provided by law. A secured creditor shall participate in the distribution pursuant to this subdivision only if a release of lien is deposited by the secured creditor conditioned only upon receiving an amount equal to the distribution.

(3) Escrow and professional charges and brokers' fees attributable directly to the sale.

(4) Wage claims given priority by Section 1205 of the Code of Civil Procedure.

(5) All other tax claims.

(6) All other unsecured claims pro rata, including any deficiency claims of partially secured creditors.

(c) To the extent that an obligation of the buyer to pay cash in the future is a part of the consideration and the cash consideration is not sufficient to pay all claims filed in full, apply all principal and interest received on the obligation to the payment of claims in accordance with subdivision (b) until they are paid in full before making any payment to the seller. In that case, the notice sent pursuant to subdivision (a) shall state the amount, terms, and due dates of the obligation and the portion of the claims expected to be paid thereby.

No funds may be drawn from the escrow, prior to the actual closing and completion of the escrow, for the payment, in whole or in part, of any commission, fee, or other consideration as compensation for a service that is contingent upon the performance of any act, condition, or instruction set forth in the escrow.

SEC. 3. Section 10103 of the Commercial Code is amended to read:

10103. (a) In this division, unless the context otherwise requires:

(1) "Buyer in ordinary course of business" means a person who, in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(2) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(3) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(4) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(5) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.

(6) "Fault" means wrongful act, omission, breach, or default.

(7) "Finance lease" means a lease with respect to which (A) the lessor does not select, manufacture, or supply the goods, (B) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease, and (C) one of the following occurs:

(i) The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract.

(ii) The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract.

(iii) The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods.

(iv) The lessor, before the lessee signs the lease contract, informs the lessee in writing (aa) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (bb) that the lessee is entitled under this division to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (cc) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(8) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (Section 10309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(9) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(10) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(11) "Lease agreement" means the bargain, with respect to the

lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this division. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(12) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this division and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(13) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(14) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(15) "Lessee in ordinary course of business" means a person who, in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind, but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(16) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(17) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(18) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(19) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(20) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(21) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(22) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(23) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(24) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(25) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(26) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(b) Other definitions applying to this division and the sections in which they appear are:

"Accessions." Subdivision (a) of Section 10310.

"Construction mortgage." Paragraph (4) of subdivision (a) of Section 10309.

"Encumbrance." Paragraph (5) of subdivision (a) of Section 10309.

"Fixtures." Paragraph (1) of subdivision (a) of Section 10309.

"Fixture filing." Paragraph (2) of subdivision (a) of Section 10309.

"Purchase money lease." Paragraph (3) of subdivision (a) of Section 10309.

(c) The following definitions in other divisions apply to this division:

"Account." Section 9106.

"Between merchants." Subdivision (3) of Section 2104.

"Buyer." Paragraph (a) of subdivision (1) of Section 2103.

"Chattel paper." Paragraph (b) of subdivision (1) of Section 9105.

"Consumer goods." Subdivision (1) of Section 9109.

"Document." Paragraph (f) of subdivision (1) of Section 9105.

"Entrusting." Subdivision (3) of Section 2403.

"General intangibles." Section 9106.

"Good faith." Paragraph (b) of subdivision (1) of Section 2103.

"Instrument." Paragraph (i) of subdivision (1) of Section 9105.

"Merchant." Subdivision (1) of Section 2104.

"Mortgage." Paragraph (j) of subdivision (1) of Section 9105.

"Pursuant to commitment." Paragraph (k) of subdivision (1) of Section 9105.

"Receipt." Paragraph (c) of subdivision (1) of Section 2103.

"Sale." Subdivision (1) of Section 2106.

"Sale on approval." Section 2326.

"Sale or return." Section 2326.

"Seller." Paragraph (d) of subdivision (1) of Section 2103.

(d) In addition, Division 1 contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 4. Section 10104 of the Commercial Code is amended to read:

10104. (a) A lease, although subject to this division, is also subject to any applicable:

(1) Certificate of title statute of this state, including the provisions of the Vehicle Code that require registration of a vehicle or boat and provisions of the Health and Safety Code that require registration of a mobilehome or commercial coach.

(2) Certificate of title statute of another jurisdiction (Section 10105).

(3) Consumer law of this state, both decisional and statutory, including, to the extent that they apply to a consumer lease transaction, Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code, and Part 4 (commencing with Section 1725) of Division 3 of the Civil Code.

(b) In case of conflict between this division, other than Section 10105, subdivision (c) of Section 10304, and subdivision (c) of Section 10305, and a law referred to in subdivision (a), that law controls.

(c) Failure to comply with an applicable law has only the effect specified therein.

SEC. 5. Section 10105 of the Commercial Code is amended to read:

10105. Subject to the provisions of subdivision (c) of Section 10304 and subdivision (c) of Section 10305, with respect to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction, compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until the earlier of (1) surrender of the certificate, or (2) four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.

SEC. 6. Section 10106 of the Commercial Code is amended to read:

10106. (a) If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement becomes enforceable or within 30 days thereafter, in which the goods are to be used, or in which the lease is executed by the lessee, the choice is not enforceable.

(b) If the judicial forum chosen by the parties to a consumer lease is in a county other than the county in which the lessee in fact signed the lease, the county in which the lessee resides at the commencement of the action, the county in which the lessee resided at the time the lease contract became enforceable, or the county in which the goods are permanently stored, the choice is not enforceable.

SEC. 7. Section 10201 of the Commercial Code is amended to read:

10201. (a) A lease contract is not enforceable by way of action or defense unless:

(1) In a lease contract that is not a consumer lease, the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars ($1,000); or

(2) There is a writing, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(b) Any description of leased goods or of the lease term is sufficient and satisfies paragraph (2) of subdivision (a), whether or not it is specific, if it reasonably identifies what is described.

(c) A writing is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under paragraph (2) of subdivision (a) beyond the lease term and the quantity of goods shown in the writing.

(d) A lease contract that does not satisfy the requirements of subdivision (a), but which is valid in other respects, is enforceable:

(1) If the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(2) If the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(3) With respect to goods that have been received and accepted by the lessee.

(e) The lease term under a lease contract referred to in subdivision (d) is:

(1) If there is a writing signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(2) If the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(3) A reasonable lease term.

SEC. 8. Section 10204 of the Commercial Code is amended to read:

10204. (a) A lease contract may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of a lease contract.

(b) An agreement sufficient to constitute a lease contract may be found although the moment of its making is undetermined.

(c) Although one or more terms are left open, a lease contract does not fail for indefiniteness if the parties have intended to make a lease contract and there is a reasonably certain basis for giving an

appropriate remedy.

SEC. 9. Section 10205 of the Commercial Code is amended to read:

10205. An offer by a merchant to lease goods to or from another person in a signed writing that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

SEC. 10. Section 10206 of the Commercial Code is amended to read:

10206. (a) Unless otherwise unambiguously indicated by the language or circumstances, an offer to make a lease contract must be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances.

(b) If the beginning of a requested performance is a reasonable mode of acceptance, an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.

SEC. 11. Section 10207 of the Commercial Code is amended to read:

10207. (a) If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.

(b) The express terms of a lease agreement and any course of performance, as well as any course of dealing and usage of trade, must be construed whenever reasonable as consistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.

(c) Subject to the provisions of Section 10208 on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

SEC. 12. Section 10208 of the Commercial Code is amended to read:

10208. (a) An agreement modifying a lease contract needs no consideration to be binding.

(b) A signed lease agreement that excludes modification or rescission except by a signed writing may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(c) Although an attempt at modification or rescission does not satisfy the requirements of subdivision (b), it may operate as a

waiver.

(d) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

SEC. 13. Section 10209 of the Commercial Code is amended to read:

10209. (a) The benefit of a supplier's promises to the lessor under the supply contract and of all warranties, whether express or implied, including those of any third party provided in connection with or as part of the supply contract, extends to the lessee to the extent of the lessee's leasehold interest under a finance lease related to the supply contract, but is subject to the terms of the warranty and of the supply contract and all defenses or claims arising therefrom.

(b) The extension of the benefit of a supplier's promises and of warranties to the lessee (subdivision (a) of Section 10209) does not: (1) modify the rights and obligations of the parties to the supply contract, whether arising therefrom or otherwise, or (2) impose any duty or liability under the supply contract on the lessee.

(c) Any modification or rescission of the supply contract by the supplier and the lessor is effective between the supplier and the lessee unless, before the modification or rescission, the supplier has received notice that the lessee has entered into a finance lease related to the supply contract. If the modification or rescission is effective between the supplier and the lessee, the lessor is deemed to have assumed, in addition to the obligations of the lessor to the lessee under the lease contract, promises of the supplier to the lessor and warranties that were so modified or rescinded as they existed and were available to the lessee before modification or rescission.

(d) In addition to the extension of the benefit of the supplier's promises and of warranties to the lessee under subdivision (a), the lessee retains all rights that the lessee may have against the supplier which arise from an agreement between the lessee and the supplier or under other law.

SEC. 14. Section 10210 of the Commercial Code is amended to read:

10210. (a) Express warranties by the lessor are created as follows:

(1) Any affirmation of fact or promise made by the lessor to the lessee which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods will conform to the affirmation or promise.

(2) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods will conform to the description.

(3) Any sample or model that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model.

(b) It is not necessary to the creation of an express warranty that the lessor use formal words, such as "warrant" or "guarantee," or that the lessor have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the lessor's opinion or commendation of the goods does not create a warranty.

SEC. 15. Section 10211 of the Commercial Code is amended to read:

10211. (a) There is in a lease contract a warranty that for the lease term no person holds a claim to or interest in the goods that arose from an act or omission of the lessor, other than a claim by way of infringement or the like, which will interfere with the lessee's enjoyment of its leasehold interest.

(b) Except in a finance lease there is in a lease contract by a lessor who is a merchant regularly dealing in goods of the kind a warranty that the goods are delivered free of the rightful claim of any person by way of infringement or the like.

(c) A lessee who furnishes specifications to a lessor or a supplier shall hold the lessor and the supplier harmless against any claim by way of infringement or the like that arises out of compliance with the specifications.

SEC. 16. Section 10212 of the Commercial Code is amended to read:

10212. (a) Except in a finance lease, a warranty that the goods will be merchantable is implied in a lease contract if the lessor is a merchant with respect to goods of that kind.

(b) Goods to be merchantable must be at least such as:

(1) Pass without objection in the trade under the description in the lease agreement;

(2) In the case of fungible goods, are of fair average quality within the description;

(3) Are fit for the ordinary purposes for which goods of that type are used;

(4) Run, within the variation permitted by the lease agreement, of even kind, quality, and quantity within each unit and among all units involved;

(5) Are adequately contained, packaged, and labeled as the lease agreement may require; and

(6) Conform to any promises or affirmations of fact made on the container or label.

(c) Other implied warranties may arise from course of dealing or usage of trade.

SEC. 17. Section 10214 of the Commercial Code is amended to read:

10214. (a) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit a warranty must be construed wherever reasonable as consistent with each other; but, subject to the provisions of Section 10202 on parol or extrinsic evidence, negation or limitation is inoperative to the

extent that the construction is unreasonable.

(b) Subject to subdivision (c), to exclude or modify the implied warranty of merchantability or any part of it the language must mention "merchantability," be by a writing, and be conspicuous. Subject to subdivision (c), to exclude or modify any implied warranty of fitness the exclusion must be by a writing and be conspicuous. Language to exclude all implied warranties of fitness is sufficient if it is in writing, is conspicuous and states, for example, "There is no warranty that the goods will be fit for a particular purpose."

(c) Notwithstanding subdivision (b), but subject to subdivision (d),

(1) Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is," or "with all faults," or by other language that in common understanding calls the lessee's attention to the exclusion of warranties and makes plain that there is no implied warranty, if in writing and conspicuous;

(2) If the lessee before entering into the lease contract has examined the goods or the sample or model as fully as desired or has refused to examine the goods, there is no implied warranty with regard to defects that an examination ought in the circumstances to have revealed; and

(3) An implied warranty may also be excluded or modified by course of dealing, course of performance, or usage of trade.

(d) To exclude or modify a warranty against interference or against infringement (Section 10211) or any part of it, the language must be specific, be by a writing, and be conspicuous, unless the circumstances, including course of performance, course of dealing, or usage of trade, give the lessee reason to know that the goods are being leased subject to a claim or interest of any person.

SEC. 18. Section 10215 of the Commercial Code is amended to read:

10215. Warranties, whether express or implied, must be construed as consistent with each other and as cumulative, but if that construction is unreasonable, the intention of the parties determines which warranty is dominant. In ascertaining that intention the following rules apply:

(1) Exact or technical specifications displace an inconsistent sample or model or general language of description.

(2) A sample from an existing bulk displaces inconsistent general language of description.

(3) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

SEC. 19. Section 10217 of the Commercial Code is amended to read:

10217. Identification of goods as goods to which a lease contract refers may be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement, identification occurs:

(1) When the lease contract is made, if the lease contract is for a lease of goods that are existing and identified;

(2) When the goods are shipped, marked, or otherwise designated by the lessor as goods to which the lease contract refers, if the lease contract is for a lease of goods that are not existing and identified; or

(3) When the young are conceived, if the lease contract is for a lease of unborn young of animals.

SEC. 20. Section 10218 of the Commercial Code is amended to read:

10218. (a) A lessee obtains an insurable interest when existing goods are identified to the lease contract even though the goods identified are nonconforming and the lessee has an option to reject them.

(b) If a lessee has an insurable interest only by reason of the lessor's identification of the goods, the lessor, until default or insolvency or notification to the lessee that identification is final, may substitute other goods for those identified.

(c) Notwithstanding a lessee's insurable interest under subdivisions (a) and (b), the lessor retains an insurable interest until an option to buy has been exercised by the lessee and risk of loss has passed to the lessee.

(d) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.

(e) The parties by agreement may determine that one or more parties have an obligation to obtain and pay for insurance covering the goods and by agreement may determine the beneficiary of the proceeds of the insurance.

SEC. 21. Section 10219 of the Commercial Code is amended to read:

10219. (a) Except in the case of a finance lease, risk of loss is retained by the lessor and does not pass to the lessee. In the case of a finance lease, risk of loss passes to the lessee.

(b) Subject to the provisions of this division on the effect of default on risk of loss (Section 10220), if risk of loss is to pass to the lessee and the time of passage is not stated, the following rules apply:

(1) If the lease contract requires or authorizes the goods to be shipped by carrier

(A) And it does not require delivery at a particular destination, the risk of loss passes to the lessee when the goods are duly delivered to the carrier; but

(B) If it does require delivery at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the lessee when the goods are there duly so tendered as to enable the lessee to take delivery.

(2) If the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the lessee on acknowledgment by the bailee of the lessee's right to possession of the goods.

(3) In any case not within paragraph (1) or (2), the risk of loss passes to the lessee on the lessee's receipt of the goods if the lessor,

or, in the case of a finance lease, the supplier, is a merchant; otherwise the risk passes to the lessee on tender of delivery.

SEC. 22. Section 10220 of the Commercial Code is amended to read:

10220. (a) Where risk of loss is to pass to the lessee and the time of passage is not stated:

(1) If a tender or delivery of goods so fails to conform to the lease contract as to give a right of rejection, the risk of their loss remains with the lessor, or, in the case of a finance lease, the supplier, until cure or acceptance.

(2) If the lessee rightfully revokes acceptance, he or she, to the extent of any deficiency in his or her effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.

(b) Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or, in the case of a finance lease, the supplier, to the extent of any deficiency in his or her effective insurance coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.

SEC. 23. Section 10221 of the Commercial Code is amended to read:

10221. If a lease contract requires goods identified when the lease contract is made, and the goods suffer casualty without fault of the lessee, the lessor, or the supplier before delivery, or the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or Section 10219, then:

(1) If the loss is total, the lease contract is avoided; and

(2) If the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at his or her option either treat the lease contract as avoided or, except in a finance lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.

SEC. 24. Section 10301 of the Commercial Code is amended to read:

10301. Except as otherwise provided in this division, a lease contract is effective and enforceable according to its terms between the parties, against purchasers of the goods, and against creditors of the parties.

SEC. 25. Section 10303 of the Commercial Code is amended to read:

10303. (a) As used in the section, "creation of a security interest" includes the sale of a lease contract that is subject to Division 9 (commencing with Section 9101), Secured Transactions, by reason of paragraph (b) of subdivision (1) of Section 9102.

(b) Except as provided in subdivisions (c) and (d), a provision in

a lease agreement which (1) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (2) makes such a transfer an event of default, gives rise to the rights and remedies provided in subdivision (e), but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(c) A provision in a lease agreement which (1) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (2) makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (1) the lessor's interest under the lease contract or (2) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subdivision (e) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.

(d) A provision in a lease agreement which (1) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (2) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subdivision (e).

(e) Subject to subdivisions (c) and (d):

(1) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in subdivision (b) of Section 10501.

(2) If paragraph (1) is not applicable and if a transfer is made that (A) is prohibited under a lease agreement or (B) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (C) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (D) a court having jurisdiction may grant other appropriate relief, including

cancellation of the lease contract or an injunction against the transfer.

(f) A transfer of "the lease" or of "all my rights under the lease," or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(g) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(h) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

SEC. 26. Section 10304 of the Commercial Code is amended to read:

10304. (a) Subject to Section 10303, a subsequent lessee from a lessor of goods under an existing lease contract obtains, to the extent of the leasehold interest transferred, the leasehold interest in the goods that the lessor had or had power to transfer, and, except as provided in subdivision (b) of this section and subdivision (d) of Section 10527, takes subject to the existing lease contract. A lessor with voidable title has power to transfer a good leasehold interest to a good faith subsequent lessee for value, but only to the extent set forth in the preceding sentence. If goods have been delivered under a transaction of purchase, the lessor has that power even though:

(1) The lessor's transferor was deceived as to the identity of the lessor;

(2) The delivery was in exchange for a check which is later dishonored;

(3) It was agreed that the transaction was to be a "cash sale"; or

(4) The delivery was procured through fraud punishable as larcenous under the criminal law.

(b) A subsequent lessee in the ordinary course of business from a lessor who is a merchant dealing in goods of that kind to whom the goods were entrusted by the existing lessee of that lessor before the interest of the subsequent lessee became enforceable against that lessor obtains, to the extent of the leasehold interest transferred, all of that lessor's and the existing lessee's rights to the goods, and takes free of the existing lease contract.

(c) A subsequent lessee from the lessor of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this state or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

SEC. 27. Section 10305 of the Commercial Code is amended to read:

10305. (a) Subject to the provisions of Section 10303, a buyer or sublessee from the lessee of goods under an existing lease contract obtains, to the extent of the interest transferred, the leasehold interest in the goods that the lessee had or had power to transfer, and, except as provided in subdivision (b) of this section and subdivision (d) of Section 10511, takes subject to the existing lease contract. A lessee with a voidable leasehold interest has power to transfer a good leasehold interest to a good faith buyer for value or a good faith sublessee for value, but only to the extent set forth in the preceding sentence. When goods have been delivered under a transaction of lease the lessee has that power even though:

(1) The lessor was deceived as to the identity of the lessee;

(2) The delivery was in exchange for a check which is later dishonored; or

(3) The delivery was procured through fraud punishable as larcenous under the criminal law.

(b) A buyer in the ordinary course of business or a sublessee in the ordinary course of business from a lessee who is a merchant dealing in goods of that kind to whom the goods were entrusted by the lessor obtains, to the extent of the interest transferred, all of the lessor's and lessee's rights to the goods, and takes free of the existing lease contract.

(c) A buyer or sublessee from the lessee of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this state or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

SEC. 28. Section 10307 of the Commercial Code is amended to read:

10307. (a) Except as otherwise provided in Section 10306, a creditor of a lessee takes subject to the lease contract.

(b) Except as otherwise provided in subdivisions (c) and (d) and in Sections 10306 and 10308, a creditor of a lessor takes subject to the lease contract unless:

(1) The creditor holds a lien that attached to the goods before the lease contract became enforceable,

(2) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest, or

(3) The creditor holds a security interest in the goods which was perfected (Section 9303) before the lease contract became enforceable.

(c) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (Section 9303) and the lessee knows of its existence.

(d) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires

knowledge of the lease unless the future advances are made pursuant to a commitment entered into without knowledge of the lease.

SEC. 29. Section 10308 of the Commercial Code is amended to read:

10308. (a) A creditor of a lessor in possession of goods subject to a lease contract may treat the lease contract as void if as against the creditor retention of possession by the lessor is fraudulent or void under any statute or rule of law, but retention of possession in good faith and current course of trade by the lessor for a commercially reasonable time after the lease contract becomes enforceable is not fraudulent or void.

(b) Nothing in this division impairs the rights of creditors of a lessor if the lease contract is made under circumstances which under any statute or rule of law apart from this division would constitute the transaction a fraudulent transfer or voidable preference.

(c) A creditor of a seller may treat a sale or an identification of goods to a contract for sale as void if as against the creditor retention of possession by the seller is fraudulent under any statute or rule of law, but retention of possession of the goods pursuant to a lease contract entered into by the seller as lessee and the buyer as lessor in connection with the sale or identification of the goods is not fraudulent if the buyer bought for value and in good faith.

SEC. 30. Section 10309 of the Commercial Code is amended to read:

10309. (a) In this section:

(1) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(2) A "fixture filing" is the filing, in the office where a mortgage on the real estate would be recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of subdivision (5) of Section 9402;

(3) A lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(4) A mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(5) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(b) Under this division a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this division of ordinary building materials incorporated into an improvement on land.

(c) This division does not prevent creation of a lease of fixtures pursuant to real estate law.

(d) The interest of a lessor of fixtures has priority over a

conflicting interest of an encumbrancer or owner of the real estate if:

(1) The lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, a fixture filing covering the fixtures is filed before the goods become fixtures or within 20 days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate;

(2) A fixture filing covering the fixtures is filed before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate;

(3) The fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease;

(4) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable;

(5) The encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(6) The lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(e) Notwithstanding paragraph (1) of subdivision (d) but otherwise subject to subdivision (d), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(f) In cases not within the preceding subdivisions, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(g) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (1) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this division, or (2) if necessary to enforce other rights and remedies of the lessor or lessee under this division, remove the goods from the real estate, free and clear of all conflicting interests of all owners and

encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

SEC. 31. Section 10310 of the Commercial Code is amended to read:

10310. (a) Goods are "accessions" when they are installed in or affixed to other goods.

(b) The interest of a lessor or a lessee under a lease contract entered into before the goods became accessions is superior to all interests in the whole except as stated in subdivision (d).

(c) The interest of a lessor or a lessee under a lease contract entered into at the time or after the goods became accessions is superior to all subsequently acquired interests in the whole except as stated in subdivision (d) but is subordinate to interests in the whole existing at the time the lease contract was made unless the holders of such interests in the whole have in writing consented to the lease or disclaimed an interest in the goods as part of the whole.

(d) The interest of a lessor or a lessee under a lease contract described in subdivision (b) or (c) is subordinate to the interest of:

(1) A buyer in the ordinary course of business or a lessee in the ordinary course of business of any interest in the whole acquired after the goods became accessions; or

(2) A creditor with a security interest in the whole perfected before the lease contract was made to the extent that the creditor makes subsequent advances without knowledge of the lease contract.

(e) When under subdivision (b) or subdivisions (c) and (d) a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may (1) on default, expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this division, or (2) if necessary to enforce his or her other rights and remedies under this division, remove the goods from the whole, free and clear of all interests in the whole, but he or she must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

SEC. 32. Section 10311 is added to the Commercial Code, to read:

10311. Nothing in this division prevents subordination by agreement by any person entitled to priority.

SEC. 33. Section 10401 of the Commercial Code is amended to read:

10401. (a) A lease contract imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired.

(b) If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable the insecure party may suspend any performance for which he or she has not already received the agreed return.

(c) A repudiation of the lease contract occurs if assurance of due performance adequate under the circumstances of the particular case is not provided to the insecure party within a reasonable time, not to exceed 30 days after receipt of a demand by the other party.

(d) Between merchants, the reasonableness of grounds for insecurity and the adequacy of any assurance offered must be determined according to commercial standards.

(e) Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

SEC. 34. Section 10402 of the Commercial Code is amended to read:

10402. (a) If either party repudiates a lease contract, other than a consumer lease, with respect to a performance not yet due under the lease contract, the loss of which performance will substantially impair the value of the lease contract to the other, the aggrieved party may:

(1) For a commercially reasonable time, await retraction of repudiation and performance by the repudiating party;

(2) Make demand pursuant to Section 10401 and await assurance of future performance adequate under the circumstances of the particular case; or

(3) Resort to any right or remedy upon default under the lease contract or this division, even though the aggrieved party has notified the repudiating party that the aggrieved party would await the repudiating party's performance and assurance and has urged retraction. In addition, whether or not the aggrieved party is pursuing one of the foregoing remedies, the aggrieved party may suspend performance or, if the aggrieved party is the lessor, proceed in accordance with the provisions of this division on the lessor's right to identify goods to the lease contract notwithstanding default or to salvage unfinished goods (Section 10524).

(b) The rights and remedies of the parties to a consumer lease in connection with a repudiation of that lease shall be determined under other laws, and this section shall not affect the applicability or interpretation of those laws.

SEC. 35. Section 10403 of the Commercial Code is amended to read:

10403. (a) Until the repudiating party's next performance is due, the repudiating party can retract the repudiation unless, since the repudiation, the aggrieved party has canceled the lease contract or materially changed the aggrieved party's position or otherwise indicated that the aggrieved party considers the repudiation final.

(b) Retraction may be by any method that clearly indicates to the aggrieved party that the repudiating party intends to perform under the lease contract and includes any assurance demanded under Section 10401.

(c) Retraction reinstates a repudiating party's rights under a lease contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.

SEC. 36. Section 10404 of the Commercial Code is amended to read:

10404. (a) If without fault of the lessee, the lessor, and the supplier, the agreed berthing, loading, or unloading facilities fail or the agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable, but a commercially reasonable substitute is available, the substitute performance must be tendered and accepted.

(b) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation:

(1) The lessor may withhold or stop delivery or cause the supplier to withhold or stop delivery unless the lessee provides a means or manner of payment that is commercially a substantial equivalent; and

(2) If delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the lessee's obligation unless the regulation is discriminatory, oppressive, or predatory.

SEC. 37. Section 10405 of the Commercial Code is amended to read:

10405. Subject to Section 10404 on substituted performance, the following rules apply:

(1) Delay in delivery or nondelivery in whole or in part by a lessor or a supplier who complies with paragraphs (2) and (3) is not a default under the lease contract if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the lease contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order, whether or not the regulation or order later proves to be invalid.

(2) If the causes mentioned in paragraph (1) affect only part of the lessor's or the supplier's capacity to perform, he or she shall allocate production and deliveries among his or her customers but at his or her option may include regular customers not then under contract for sale or lease as well as his or her own requirements for further manufacture. He or she may so allocate in any manner that is fair and reasonable.

(3) The lessor seasonably shall notify the lessee and in the case of a finance lease the supplier seasonably shall notify the lessor and the lessee, if known, that there will be delay or nondelivery and, if allocation is required under paragraph (2), of the estimated quota thus made available for the lessee.

SEC. 38. Section 10406 of the Commercial Code is amended to read:

10406. (a) If the lessee receives notification of a material or indefinite delay or an allocation justified under Section 10405, the lessee may by written notification to the lessor as to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 10510):

(1) Terminate the lease contract (subdivision (b) of Section 10505); or

(2) Except in a finance lease, modify the lease contract by accepting the available quota in substitution, with due allowance from the rent payable for the balance of the lease term for the deficiency but without further right against the lessor.

(b) If, after receipt of a notification from the lessor under Section 10405, the lessee fails so to modify the lease agreement within a reasonable time not exceeding 30 days, the lease contract lapses with respect to any deliveries affected.

SEC. 39. Section 10407 of the Commercial Code is amended to read:

10407. (a) In the case of a finance lease that is not a consumer lease the lessee's promises under the lease contract become irrevocable and independent upon the lessee's acceptance of the goods.

(b) A promise that has become irrevocable and independent under subdivision (a):

(1) Is effective and enforceable between the parties, and by or against third parties including assignees of the parties; and

(2) Is not subject to cancellation, termination, modification, repudiation, excuse, or substitution without the consent of the party to whom the promise runs.

(c) This section does not affect the validity under any other law of a covenant in any lease contract making the lessee's promises irrevocable and independent upon the lessee's acceptance of the goods.

SEC. 40. Section 10501 of the Commercial Code is amended to read:

10501. (a) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this division.

(b) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this division and, except as limited by this division, as provided in the lease agreement.

(c) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this division.

(d) Except as otherwise provided in subdivision (1) of Section 1106 or this division or the lease agreement, the rights and remedies referred to in subdivisions (b) and (c) are cumulative.

(e) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this chapter as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this chapter does not apply.

SEC. 41. Section 10503 of the Commercial Code is amended to read:

10503. (a) Except as otherwise provided in this division, the lease agreement may include rights and remedies for default in addition to or in substitution for those provided in this division and may limit or alter the measure of damages recoverable under this division.

(b) Resort to a remedy provided under this division or in the lease agreement is optional unless the remedy is expressly agreed to be exclusive. If circumstances cause an exclusive or limited remedy to fail of its essential purpose, or provision for an exclusive remedy is unconscionable, remedy may be had as provided in this division.

(c) Consequential damages may be liquidated under Section 10504, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. Limitation, alteration, or exclusion of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation, alteration, or exclusion of damages where the loss is commercial is not prima facie unconscionable.

(d) Rights and remedies on default by the lessor or the lessee with respect to any obligation or promise collateral or ancillary to the lease contract are not impaired by this division.

SEC. 42. Section 10504 of the Commercial Code is amended to read:

10504. (a) Damages payable by either party for default, or any other act or omission, including indemnity for loss or diminution of anticipated tax benefits or loss or damage to the lessor's residual interest, may be liquidated in the lease agreement subject to and in compliance with Section 1671 of the Civil Code.

(b) If the lease agreement provides for liquidation of damages, and such provision does not comply with subdivision (a), remedy may be had as provided in this division.

(c) If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (Section 10525 or 10526),

the lessee is entitled to restitution of any amount by which the sum of his or her payments exceeds:

(1) The amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages in accordance with subdivision (a); or

(2) In the absence of those terms, 20 percent of the then present value of the total rent the lessee was obligated to pay for the balance of the lease term, or, in the case of a consumer lease, the lesser of such amount or five hundred dollars ($500).

(d) A lessee's right to restitution under subdivision (c) is subject to offset to the extent the lessor establishes:

(1) A right to recover damages under the provisions of this division other than subdivision (a); and

(2) The amount or value of any benefits received by the lessee directly or indirectly by reason of the lease contract.

SEC. 43. Section 10505 of the Commercial Code is amended to read:

10505. (a) On cancellation of the lease contract, all obligations that are still executory on both sides are discharged, but any right based on prior default or performance survives, and the canceling party also retains any remedy for default of the whole lease contract or any unperformed balance.

(b) On termination of the lease contract, all obligations that are still executory on both sides are discharged but any right based on prior default or performance survives.

(c) Unless the contrary intention clearly appears, expressions of "cancellation," "rescission," or the like of the lease contract may not be construed as a renunciation or discharge of any claim in damages for an antecedent default.

(d) Rights and remedies for material misrepresentation or fraud include all rights and remedies available under this division for default.

(e) Neither rescission nor a claim for rescission of the lease contract nor rejection or return of the goods may bar or be deemed inconsistent with a claim for damages or other right or remedy.

SEC. 44. Section 10506 of the Commercial Code is amended to read:

10506. (a) An action for default under a lease contract, including breach of warranty or indemnity, must be commenced within four years after the cause of action accrued. In a lease contract that is not a consumer lease, by the original lease contract the parties may reduce the period of limitation to not less than one year.

(b) A cause of action for default accrues when the act or omission on which the default or breach of warranty is based is or should have been discovered by the aggrieved party, or when the default occurs, whichever is later. A cause of action for indemnity accrues when the act or omission on which the claim for indemnity is based is or should have been discovered by the indemnified party, whichever is later.

(c) If an action commenced within the time limited by

subdivision (a) is so terminated as to leave available a remedy by another action for the same default or breach of warranty or indemnity, the other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(d) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action that have accrued before the operative date of this division.

SEC. 45. Section 10507 of the Commercial Code is amended to read:

10507. (a) Damages based on market rent (Section 10519 or 10528) are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times specified in Sections 10519 and 10528.

(b) If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this division is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.

(c) Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this division offered by one party is not admissible unless and until he or she has given the other party notice the court finds sufficient to prevent unfair surprise.

(d) If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight but not its admissibility.

SEC. 46. Section 10508 of the Commercial Code is amended to read:

10508. (a) If a lessor fails to deliver the goods in conformity to the lease contract (Section 10509) or repudiates the lease contract (Section 10402), or a lessee rightfully rejects the goods (Section 10509) or justifiably revokes acceptance of the goods (Section 10517), then with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 10510), the lessor is in default under the lease contract and the lessee may:

(1) Cancel the lease contract (subdivision (a) of Section 10505);

(2) Recover so much of the rent and security as has been paid and

is just under the circumstances;

(3) Cover and recover damages as to all goods affected whether or not they have been identified to the lease contract (Sections 10518 and 10520), or recover damages for nondelivery (Sections 10519 and 10520);

(4) Exercise any other rights or pursue any other remedies provided in the lease contract.

(b) If a lessor fails to deliver the goods in conformity to the lease contract or repudiates the lease contract, the lessee may also:

(1) If the goods have been identified, recover them (Section 10522); or

(2) In a proper case, obtain specific performance or replevy the goods (Section 10521).

(c) If a lessor is otherwise in default under a lease contract, the lessee may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease, and in subdivision (c) of Section 10519.

(d) If a lessor has breached a warranty, whether express or implied, the lessee may recover damages (subdivision (d) of Section 10519).

(e) On rightful rejection or justifiable revocation of acceptance, a lessee has a security interest in goods in the lessee's possession or control for any rent and security that has been paid and any expenses reasonably incurred in their inspection, receipt, transportation, and care and custody, and may hold those goods and dispose of them in good faith and in a commercially reasonable manner, subject to subdivision (e) of Section 10527.

(f) Subject to the provisions of Section 10407, a lessee, on notifying the lessor of the lessee's intention to do so, may deduct all or any part of the damages resulting from any default under the lease contract from any part of the rent still due under the same lease contract.

SEC. 47. Section 10509 of the Commercial Code is amended to read:

10509. (a) Subject to the provisions of Section 10510 on default in installment lease contracts, if the goods or the tender or delivery fail in any respect to conform to the lease contract, the lessee may reject or accept the goods or accept any commercial unit or units and reject the rest of the goods.

(b) Rejection of goods is ineffective unless it is within a reasonable time after tender or delivery of the goods and the lessee seasonably notifies the lessor.

SEC. 48. Section 10510 of the Commercial Code is amended to read:

10510. (a) Under an installment lease contract, a lessee may reject any delivery that is nonconforming if the nonconformity substantially impairs the value of that delivery and cannot be cured or the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subdivision (b) and the lessor or the supplier gives adequate assurance of its cure, the lessee must

accept that delivery.

(b) Whenever nonconformity or default with respect to one or more deliveries substantially impairs the value of the installment lease contract as a whole there is a default with respect to the whole. But, the aggrieved party reinstates the installment lease contract as a whole if the aggrieved party accepts a nonconforming delivery without seasonably notifying of cancellation or brings an action with respect only to past deliveries or demands performance as to future deliveries.

SEC. 49. Section 10511 of the Commercial Code is amended to read:

10511. (a) Subject to any security interest of a lessee (subdivision (e) of Section 10508), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in his or her possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(b) If a merchant lessee (subdivision (a)) or any other lessee (Section 10512) disposes of goods, he or she is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade, or if there is none, to a reasonable sum not exceeding 10 percent of the gross proceeds.

(c) In complying with this section or Section 10512, the lessee is held only to good faith. Good faith conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.

(d) A purchaser who purchases in good faith from a lessee pursuant to this section or Section 10512 takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with one or more of the requirements of this division.

SEC. 50. Section 10512 of the Commercial Code is amended to read:

10512. (a) Except as otherwise provided with respect to goods that threaten to decline in value speedily (Section 10511) and subject to any security interest of a lessee (subdivision (e) of Section 10508):

(1) The lessee, after rejection of goods in the lessee's possession, shall hold them with reasonable care at the lessor's or the supplier's disposition for a reasonable time after the lessee's seasonable notification of rejection;

(2) If the lessor or the supplier gives no instructions within a reasonable time after notification of rejection, the lessee may store the rejected goods for the lessor's or the supplier's account or ship them to the lessor or the supplier or dispose of them for the lessor's or the supplier's account with reimbursement in the manner

provided in Section 10511; but

(3) The lessee has no further obligations with regard to goods rightfully rejected.

(b) Action by the lessee pursuant to subdivision (a) is not acceptance or conversion.

SEC. 51. Section 10513 of the Commercial Code is amended to read:

10513. (a) If any tender or delivery by the lessor or the supplier is rejected because it is nonconforming and the time for performance has not yet expired, the lessor or the supplier may seasonably notify the lessee of the lessor's or the supplier's intention to cure and may then make a conforming delivery within the time provided in the lease contract.

(b) If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if he or she seasonably notifies the lessee.

SEC. 52. Section 10514 of the Commercial Code is amended to read:

10514. (a) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(1) If, stated seasonably, the lessor or the supplier could have cured it (Section 10513); or

(2) Between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(b) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent on the face of the documents.

SEC. 53. Section 10515 of the Commercial Code is amended to read:

10515. (a) Acceptance of goods occurs after the lessee has had a reasonable opportunity to inspect the goods and

(1) The lessee signifies or acts with respect to the goods in a manner that signifies to the lessor or the supplier that the goods are conforming or that the lessee will take or retain them in spite of their nonconformity; or

(2) The lessee fails to make an effective rejection of the goods (subdivision (b) of Section 10509).

(b) Acceptance of a part of any commercial unit is acceptance of that entire unit.

SEC. 54. Section 10516 of the Commercial Code is amended to read:

10516. (a) A lessee must pay rent for any goods accepted in accordance with the lease contract, with due allowance for goods rightfully rejected or not delivered.

(b) A lessee's acceptance of goods precludes rejection of the goods accepted. In the case of a finance lease, other than a consumer lease in which the supplier assisted in the preparation of the lease contract or participated in negotiating the terms of the lease contract with the lessor, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it. In any other case, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured. Acceptance does not of itself impair any other remedy provided by this division or the lease agreement for nonconformity.

(c) If a tender has been accepted:

(1) Within a reasonable time after the lessee discovers or should have discovered any default, the lessee shall notify the lessor and the supplier, if any, or be barred from any remedy against the party not notified;

(2) Within a reasonable time after the lessee receives notice of litigation for infringement or the like (Section 10211) the lessee shall notify the lessor or be barred from any remedy over for liability established by the litigation; and

(3) The burden is on the lessee to establish any default.

(d) If a lessee is sued for breach of a warranty or other obligation for which a lessor or a supplier is answerable over the following apply:

(1) The lessee may give the lessor or the supplier, or both, written notice of the litigation. If the notice states that the person notified may come in and defend and that if the person notified does not do so that person will be bound in any action against that person by the lessee by any determination of fact common to the two litigations, then unless the person notified after seasonable receipt of the notice does come in and defend that person is so bound.

(2) The lessor or the supplier may demand in writing that the lessee turn over control of the litigation including settlement if the claim is one for infringement or the like (Section 10211) or else be barred from any remedy over. If the demand states that the lessor or the supplier agrees to bear all expense and to satisfy any adverse judgment, then unless the lessee after seasonable receipt of the demand does turn over control the lessee is so barred.

(e) Subdivisions (c) and (d) apply to any obligation of a lessee to hold the lessor or the supplier harmless against infringement or the like (Section 10211).

(f) Subdivision (c) shall not apply to a consumer lease.

SEC. 55. Section 10517 of the Commercial Code is amended to read:

10517. (a) A lessee may revoke acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to the lessee if the lessee has accepted it:

(1) Except in the case of a finance lease, on the reasonable assumption that its nonconformity would be cured and it has not

been seasonably cured; or

(2) Without discovery of the nonconformity if the lessee's acceptance was reasonably induced either by the lessor's assurances or, except in the case of a finance lease, by the difficulty of discovery before acceptance.

(b) A lessee may revoke acceptance of a lot or commercial unit if the lessor defaults under the lease contract and the default substantially impairs the value of that lot or commercial unit to the lessee.

(c) If the lease agreement so provides, the lessee may revoke acceptance of a lot or commercial unit because of other defaults by the lessor.

(d) Revocation of acceptance must occur within a reasonable time after the lessee discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by the nonconformity. Revocation is not effective until the lessee notifies the lessor.

(e) A lessee who so revokes has the same rights and duties with regard to the goods involved as if the lessee had rejected them.

SEC. 56. Section 10518 of the Commercial Code is amended to read:

10518. (a) After a default by a lessor under the lease contract of the type described in subdivision (a) of Section 10508, or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(b) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Section 10503 and subdivision (3) of Section 1102), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (1) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (2) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

(c) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subdivision (b), or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and Section 10519 governs.

SEC. 57. Section 10519 of the Commercial Code is amended to read:

10519. (a) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or

otherwise determined pursuant to agreement of the parties (Section 10503 and subdivision (3) of Section 1102), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under subdivision (b) of Section 10518, or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(b) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(c) Except as otherwise agreed, if the lessee has accepted goods and given notification (subdivision (c) of Section 10516), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(d) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

SEC. 58. Section 10520 of the Commercial Code is amended to read:

10520. (a) Incidental damages resulting from a lessor's default include expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected or goods the acceptance of which is justifiably revoked, any commercially reasonable charges, expenses, or commissions in connection with effecting cover, and any other reasonable expense incident to the default.

(b) Consequential damages resulting from a lessor's default include:

(1) Any loss resulting from general or particular requirements and needs of which the lessor at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(2) Injury to person or property proximately resulting from any breach of warranty.

SEC. 59. Section 10521 of the Commercial Code is amended to read:

10521. (a) Specific performance may be decreed if the goods are unique or in other proper circumstances.

(b) A decree for specific performance may include any terms and conditions as to payment of the rent, damages, or other relief that the court deems just.

(c) A lessee has a right of replevin, detinue, sequestration, claim and delivery, or the like for goods identified to the lease contract if after reasonable effort the lessee is unable to effect cover for those goods or the circumstances reasonably indicate that the effort will be unavailing.

SEC. 60. Section 10522 of the Commercial Code is amended to read:

10522. (a) Subject to subdivision (b) and even though the goods have not been shipped, a lessee who has paid a part or all of the rent and security for goods identified to a lease contract (Section 10217) on making and keeping good a tender of any unpaid portion of the rent and security due under the lease contract may recover the goods identified from the lessor if the lessor becomes insolvent within 10 days after receipt of the first installment of rent and security.

(b) A lessee acquires the right to recover goods identified to a lease contract only if they conform to the lease contract.

SEC. 61. Section 10523 of the Commercial Code is amended to read:

10523. (a) If a lessee wrongfully rejects or revokes acceptance of goods or fails to make a payment when due or repudiates with respect to a part or the whole, then, with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 10510), the lessee is in default under the lease contract and the lessor may:

(1) Cancel the lease contract (subdivision (a) of Section 10505);

(2) Proceed respecting goods not identified to the lease contract (Section 10524);

(3) Withhold delivery of the goods and take possession of goods previously delivered (Section 10525);

(4) Stop delivery of the goods by any bailee (Section 10526);

(5) Dispose of the goods and recover damages (Section 10527), or retain the goods and recover damages (Section 10528), or in a proper case recover rent (Section 10529);

(6) Exercise any other rights or pursue any other remedies provided in the lease contract.

(b) If a lessor does not fully exercise a right or obtain a remedy to which the lessor is entitled under subdivision (a), the lessor may recover the loss resulting in the ordinary course of events from the lessee's default as determined in any reasonable manner, together with incidental damages, less expenses saved in consequence of the lessee's default.

(c) If a lessee is otherwise in default under a lease contract, the

lessor may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease. In addition, unless otherwise provided in the lease contract:

(1) If the default substantially impairs the value of the lease contract to the lessor, the lessor may exercise the rights and pursue the remedies provided in subdivisions (a) and (b); or

(2) If the default does not substantially impair the value of the lease contract to the lessor, the lessor may recover as provided in subdivision (b).

SEC. 62. Section 10524 of the Commercial Code is amended to read:

10524. (a) After a default by the lessee under the lease contract of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523 or, if agreed, after other default by the lessee, the lessor may:

(1) Identify to the lease contract conforming goods not already identified if at the time the lessor learned of the default they were in the lessor's or the supplier's possession or control; and

(2) Dispose of goods (subdivision (a) of Section 10527) that demonstrably have been intended for the particular lease contract even though those goods are unfinished.

(b) If the goods are unfinished, in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization, an aggrieved lessor or the supplier may either complete manufacture and wholly identify the goods to the lease contract or cease manufacture and lease, sell, or otherwise dispose of the goods for scrap or salvage value or proceed in any other reasonable manner.

SEC. 63. Section 10525 of the Commercial Code is amended to read:

10525. (a) If a lessor discovers the lessee to be insolvent, the lessor may refuse to deliver the goods.

(b) After a default by the lessee under the lease contract of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523 or, if agreed, after other default by the lessee, the lessor has the right to take possession of the goods. If the lease contract so provides, the lessor may require the lessee to assemble the goods and make them available to the lessor at a place to be designated by the lessor which is reasonably convenient to both parties. Without removal, the lessor may render unusable any goods employed in trade or business, and may dispose of goods on the lessee's premises (Section 10527).

(c) The lessor may proceed under subdivision (b) without judicial process if it can be done without breach of the peace or the lessor may proceed by action.

SEC. 64. Section 10526 of the Commercial Code is amended to read:

10526. (a) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be

insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security, or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

(b) In pursuing its remedies under subdivision (a), the lessor may stop delivery until:

(1) Receipt of the goods by the lessee;

(2) Acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

(3) Such an acknowledgment to the lessee by a carrier via reshipment or as warehouseman.

(c) (1) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(2) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(3) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

SEC. 65. Section 10527 of the Commercial Code is amended to read:

10527. (a) After a default by a lessee under the lease contract of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523 or after the lessor refuses to deliver or takes possession of goods (Section 10525 or 10526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(b) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Section 10503 and subdivision (3) of Section 1102), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (1) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (2) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (3) any incidental damages allowed under Section 10530, less expenses saved in consequence of the lessee's default.

(c) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subdivision (b), or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and Section 10528

governs.

(d) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this division.

(e) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (subdivision (e) of Section 10508).

SEC. 66. Section 10528 of the Commercial Code is amended to read:

10528. (a) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 10504) or otherwise determined pursuant to agreement of the parties (Section 10503 and subdivision (3) of Section 1102), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under subdivision (b) of Section 10527, or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523, or, if agreed, for other default of the lessee, (1) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (2) the present value as of the date determined under paragraph (1) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (3) any incidental damages allowed under Section 10530, less expenses saved in consequence of the lessee's default.

(b) If the measure of damages provided in subdivision (a) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under Section 10530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

SEC. 67. Section 10529 of the Commercial Code is amended to read:

10529. (a) After default by the lessee under the lease contract of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523 or, if agreed, after other default by the lessee, if the lessor complies with subdivision (b), the lessor may recover from the lessee as damages:

(1) For goods accepted by the lessee and not repossessed by or

tendered to the lessor, and for conforming goods lost or damaged after risk of loss passes to the lessee (Section 10219), (A) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (B) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (C) any incidental damages allowed under Section 10530, less expenses saved in consequence of the lessee's default; and

(2) For goods identified to the lease contract where the lessor has never delivered the goods or has taken possession of them or the lessee has tendered them to the lessor, if the lessor is unable after reasonable effort to dispose of them at a reasonable price or the circumstances reasonably indicate that effort will be unavailing, (A) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (B) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (C) any incidental damages allowed under Section 10530, less expenses saved in consequence of the lessee's default.

(b) Except as provided in subdivision (c), the lessor shall hold for the lessee for the remaining lease term of the lease agreement any goods that have been identified to the lease contract and are in the lessor's control.

(c) The lessor may dispose of the goods at any time before collection of the judgment for damages obtained pursuant to subdivision (a). If the disposition is before the end of the remaining lease term of the lease agreement, the lessor's recovery against the lessee for damages is governed by Section 10527 or 10528, and the lessor will cause an appropriate credit to be provided against a judgment for damages to the extent that the amount of the judgment exceeds the recovery available pursuant to Section 10527 or 10528.

(d) Payment of the judgment for damages obtained pursuant to subdivision (a) entitles the lessee to the use and possession of the goods not then disposed of for the remaining lease term of and in accordance with the lease agreement.

(e) After default by the lessee under the lease contract of the type described in subdivision (a) of, or paragraph (1) of subdivision (c) of, Section 10523 or, if agreed, after other default by the lessee, a lessor who is held not entitled to rent under this section must nevertheless be awarded damages for nonacceptance under Section 10527 or 10528.

SEC. 68. Section 10531 of the Commercial Code is amended to read:

10531. (a) If a third party so deals with goods that have been identified to a lease contract as to cause actionable injury to a party to the lease contract (1) the lessor has a right of action against the third party, and (2) the lessee also has a right of action against the third party if the lessee:

(A) Has a security interest in the goods;

(B) Has an insurable interest in the goods; or

(C) Bears the risk of loss under the lease contract or has since the

injury assumed that risk as against the lessor and the goods have been converted or destroyed.

(b) If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, his or her suit or settlement, subject to his or her own interest, is as a fiduciary for the other party to the lease contract.

(c) Either party with the consent of the other may sue for the benefit of whom it may concern.

SEC. 69. Section 10532 of the Commercial Code is amended to read:

10532. In addition to any other recovery permitted by this division or other law, the lessor may recover from the lessee an amount that will fully compensate the lessor for any loss of or damage to the lessor's residual interest in the goods caused by the default of the lessee.

SEC. 70. Section 1.2 of this bill incorporates amendments to Section 1201 of the Commercial Code proposed by both this bill and SB 833. It shall become operative if (1) both bills are enacted and become effective on or before January 1, 1992, but this bill becomes operative first, (2) each bill amends Section 1201 of the Commercial Code, and (3) this bill is enacted after SB 833, in which case Section 1201 of the Commercial Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 833, at which time Section 1.2 of this bill shall become operative.

SEC. 71. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 corrects various technical errors in existing law. In order for these changes to take effect as soon as possible, it is necessary for the bill to take effect immediately.

CHAPTER 112

An act to amend Sections 409.1 and 409.2 of the Code of Civil Procedure, relating to lis pendens.

[Approved by Governor July 14, 1991 Filed with Secretary of State July 15, 1991]

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

SECTION 1. Section 409.1 of the Code of Civil Procedure is amended to read:

409.1. At any time after notice of pendency of an action has been recorded pursuant to Section 409 or other law, the court in which the action is pending shall, upon motion of a party to the action

supported by affidavit, order that the notice be expunged, unless the party filing the notice shows to the satisfaction of the court, by a preponderance of the evidence, that:

(a) The action does affect title to or right of possession of the real property described in the notice; and

(b) Insofar as the action affects title to or right of possession of the real property described in the notice, the party recording the notice has commenced or prosecuted the action for a proper purpose and in good faith. Notice of motion to expunge shall be served in the same manner, and at the same times, prescribed by subdivision (b) of Section 1005. The court shall determine the matter on the affidavits and counteraffidavits on file and upon such other proof as the court may permit. Upon recordation of a certified copy of the order expunging a notice of pendency of the action in the office of the county recorder in which the notice of the pendency of the action was recorded neither the notice of the pendency of the action nor any information derived therefrom, prior to the recording of a certified copy of the judgment or decree issued therein, shall constitute constructive or actual notice of any of the matters contained therein, or of any of the matters relating to the action, or create any duty of inquiry in any person thereafter dealing with the property described therein.

The court, as a condition of granting or denying the motion to expunge, may require that the party prevailing upon the motion give the other party an undertaking of the nature, and in the amount as shall be fixed by the court, the undertaking to be to the effect that the prevailing party will indemnify the other party for all damages that proximately result from the expungement or nonexpungement, which he or she may incur if he or she ultimately prevails in the action.

SEC. 2. Section 409.2 of the Code of Civil Procedure is amended to read:

409.2. At any time after notice of pendency of an action has been recorded pursuant to Section 409 or other law, the court in which the action is pending may order that the notice be expunged if the moving party shall have given an undertaking of such nature, in such amount and within such time as shall be fixed by the court after notice and hearing, that undertaking to be to the effect that the moving party will indemnify the party recording the notice for all damages that proximately result from the expungement, which he or she may incur if the notice is expunged and the moving party does not prevail and if the court finds that adequate relief can be secured to the party recording the notice by the giving of such undertaking. Upon recordation of a certified copy of such order in the office of the county recorder in which the notice of the pendency of the action was recorded, neither the notice of the pendency of the action nor any information derived therefrom, prior to the recording of a certified copy of the judgment or decree issued therein, shall constitute constructive or actual notice of any of the matters

contained therein, or of any of the matters relating to that action, or create any duty of inquiry in any person thereafter dealing with the property described therein.

SEC. 3. This act does not constitute a change in, but is declaratory of, existing law.

CHAPTER 113

An act to amend Sections 11758.10, 11758.12, 11758.15, and 11862 of the Health and Safety Code, relating to alcohol and drug programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 15, 1991 Filed with Secretary of State July 15, 1991]

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

SECTION 1. Section 11758.10 of the Health and Safety Code is amended to read:

11758.10. (a) Notwithstanding any other provision of law, the department shall conduct a pilot project in accordance with this chapter with any or all of the following counties requesting to participate in the pilot project: Butte County, Merced County, and Stanislaus County, for fiscal years 1988–89 to 1993–94, inclusive; and Fresno County, Riverside County, San Joaquin County, and Tulare County, for fiscal years 1989–90 to 1993–94, inclusive.

(b) The department shall submit an interim report by January 1, 1991, and a final report by January 1, 1995, to the Chairperson of the Senate Health and Human Services Committee, the Chairperson of the Assembly Health Committee, and the Chairperson of the Assembly Human Services Committee as to whether the use of negotiated net amount contracts under this pilot project result in improved levels of efficiency, local discretion and flexibility, reduced local administrative overhead and costs, and increased program funds for services, as well as maintenance of quality and access within the counties requesting to participate in the pilot project.

SEC. 2. Section 11758.12 of the Health and Safety Code is amended to read:

11758.12. (a) A negotiated net amount, for the purposes of this chapter, shall be determined by calculating the total budget for services less the amount of projected revenue. These net amounts for alcohol or drug services, or both, shall be negotiated for each year of the pilot project between the participating county and the department and shall be disbursed to participating counties on a monthly basis.

(b) No contracts shall become final until approved by both the participating county and the department. If approval is received after the commencement date of the contract, the approval shall be

retroactive to the commencement date. Should a contract not be approved by the department and the county within 90 days of issuance of the final allocation to the county by the department, the county shall be compensated for work performed upon submission by the county of an alcohol program plan, or drug program plan, or both, in conformance with existing requirements for submission of the plan.

(c) Once the negotiated net amount is approved by the department, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), shall be bound to that amount as the cost of providing alcohol or drug services, or both, as described in the contract. Where the State Department of Health Services adopts regulations for determining reimbursement of county drug program plan services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of these services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries.

(d) Participating counties shall report to the department any information required by the department in accordance with, but shall not exceed, any statutory restrictions, limitations, or conditions enacted by the Legislature, including the applicable budget act.

(e) Absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a county's expenditure or retention of funds received pursuant to this chapter.

(f) The county shall notify the department by a date specified in the contract, in each fiscal year, of any unspent federal funds that are to be added to the county's contract for the following fiscal year. These funds shall be spent first by the county in the next contract year.

(g) Unspent federal funds identified after a date specified in the contract shall be retained by the department, except for those funds awarded to the department by the federal government for specified providers or federal categorical projects.

SEC. 3. Section 11758.15 of the Health and Safety Code is amended to read:

11758.15. This chapter 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. 4. Section 11862 of the Health and Safety Code is amended to read:

11862. (a) There is in state government a State Advisory Board on Drug Programs which shall consist of 15 members, of which five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly.

(b) Initial appointments to the advisory board shall be made as

follows:

(1) The Governor shall appoint two members for one-year terms, two members for two-year terms, and one member for a three-year term.

(2) The speaker shall appoint two members for one-year terms, one member for a two-year term, and two members for three-year terms.

(3) The Senate Rules Committee shall appoint one member for a one-year term, two members for two-year terms, and two members for three-year terms.

(4) Subsequent appointments shall be made as prescribed in subdivision (a) for a term of three years. A member of the board may be replaced by the appointing power, upon recommendation of the board, for failure to attend board meetings.

(c) Members shall have a professional or personal interest in, and commitment to, alleviating drug problems, and shall include representatives of law enforcement agencies, public drug programs, private drug programs, education, and the general public. It is the intent of the Legislature that the appointing powers make appointments that include representatives of nongovernmental organizations or groups and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from various economic, social, and occupational groups, and allow for the geographic distribution of members throughout the state. Representatives from public and private drug prevention or treatment programs shall not comprise more than 33⅓ percent of the total membership. These members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board.

(d) The board shall constitute the drug abuse prevention advisory council as described in federal Public Laws 92-255 and 94-237, as amended. In the interest of continuity relating to the functions of the board pursuant to subdivision (j), those members of the former Technical Advisory Committee/Drug Abuse Prevention Advisory Council reconstituted by this part, and who have remaining terms of one or two years, shall be considered in the appointments under this section.

(e) The board shall meet at least once every three months and may meet as often as required, as a full board or in committees, to implement this section. All meetings of the board, and any committees thereof, shall be open to the public and adequate notice shall be provided in advance to interested persons.

(f) The members shall select the chair of the board annually and adopt bylaws as appropriate to carry out their duties.

(g) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

(h) The board shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but

not limited to, the following:

(1) Advise the director on the major policy issues relating to the implementation by the department of this part and on any other related matters that the director refers to it, or that the board may raise, encourage public understanding of the nature of drug problems, and encourage support throughout the state for the development and implementation of effective drug programs. Upon request of the chair of the board, the department shall respond in writing to the board regarding each of its recommendations.

(2) Periodically review drug abuse services in California.

(3) Recommend to the director rules, regulations, and standards for the administration of this division.

(4) Review the annual state and federal drug abuse plans and budgets, and all amendments thereto, and advise the director on the development of the state drug abuse plan and the system of priorities contained in that plan.

(5) Submit an annual report to the department and the Legislature in November of each year which describes its accomplishments and includes its recommendations regarding the department's role in alleviating drug problems.

(i) The department shall provide administrative, technical, and other personnel as may be necessary for the board's performance of its powers and duties.

(j) The department shall provide appropriate training to the board members relating to their charge so as to assure their understanding of the state drug program. It is the intent of the Legislature that each member of the board learn about the elements of the drug program and the nature of drug problems in his or her county of residence, to assist him or her in understanding the major policies to be examined by the board.

(k) This section shall remain in effect until December 31, 1994, and as of that date is repealed, unless a later enacted statute which is chaptered on or before September 30, 1994, deletes or extends that date.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The pilot project for seven counties expires July 1, 1991, and the State Advisory Board on Drug Programs is repealed on December 31, 1991, and, in order to continue these vital and necessary programs for the provision of drug and alcohol services without interruption, it is necessary that this act take effect immediately.

CHAPTER 114

An act to amend Sections 72252 and 72252.1 of, and to repeal Sections 72250.5 and 72251 of, the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 15, 1991. Filed with Secretary of State July 15, 1991.]

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

SECTION 1. Section 72250.5 of the Education Code is repealed.

SEC. 2. Section 72251 of the Education Code is repealed.

SEC. 3. Section 72252.1 of the Education Code is amended to read:

72252.1. (a) It is the intent of the Legislature to provide adequate funding for the purpose of providing financial aid funds directly to low-income students who cannot pay the fees specified in subdivision (b) of Section 72252, and for the purpose of defraying fees pursuant to subdivisions (g) and (h) of Section 72252.

(b) It is the intent of the Legislature that all funds provided pursuant to subdivision (a) be allocated to community college districts. In prescribing the manner of allocation, the board shall endeavor to ensure that students with similar characteristics are treated similarly with respect to the provision of financial aid pursuant to this section, regardless of the community college they attend.

In allocating funds pursuant to this section, the board shall consider the number of students eligible for assistance in the prior academic year and other factors that may have bearing on the amount of these funds required by each community college district.

The board may allocate up to 7 percent of the total amount of funds provided pursuant to subdivision (a) to community college districts for delivery of student financial aid services required as a result of this section. Funds so allocated to a district for delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1983–84 fiscal year, adjusted annually in accordance with the cost-of-living adjustment to the general apportionments.

The board shall be provided adequate resources through the annual Budget Act to support state administration of this financial aid program.

(c) Financial aid shall be provided pursuant to this section only to those students required to pay the fee specified in subdivision (b) of Section 72252, and only in an amount equal to the fee actually charged the student pursuant to those sections. In addition, the chancellor shall pay districts the amount of fees defrayed pursuant

to subdivisions (g) and (h) of Section 72252.

(d) Districts that receive an allocation of funds pursuant to this section shall administer and award the funds in accordance with regulations adopted by the board of governors.

(e) If the amount of funds provided pursuant to subdivision (a) exceeds the need for financial aid to students who cannot afford to pay the fee charged pursuant to subdivision (b) of Section 72252, the excess shall revert to the General Fund.

(f) If the amount needed for financial aid to students who cannot afford the fee charged pursuant to subdivision (b) of Section 72252 and to pay districts for the total amount of fees defrayed pursuant to subdivisions (g) and (h) of Section 72252 is greater than the amount of funds provided pursuant to subdivision (a), the chancellor shall certify to the Department of Finance the amount of the additional funds that are required. Upon receipt of this certification, the Director of Finance shall take any administrative action available to him or her to transfer the additional funds, pursuant to the Budget Act or as otherwise provided by the Legislature.

SEC. 4. Section 72252 of the Education Code is amended to read:

72252. (a) The governing board of each community college district shall charge each student a fee, pursuant to this section.

(b) (1) The fee prescribed by this section shall be five dollars ($5) per unit per semester up to a maximum of fifty dollars ($50) per semester.

(2) For the 1991–92 academic year only, the governing board of each community college district shall, in addition to the fee prescribed in paragraph (1), impose a surcharge of one dollar ($1.00) per unit per semester up to a maximum of ten dollars ($10) per semester.

The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts, 98 percent of the revenues received by districts from charging a fee pursuant to this section or from fees defrayed pursuant to subdivision (f) shall be deemed to be local property tax revenue within the meaning of subdivision (b) of Section 84700.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84711.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the

California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) The fee requirements of this section shall be defrayed pursuant to Section 72252.1 for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(h) The fee requirements of this section shall be defrayed pursuant to Section 72252.1 for any student who, at the time of enrollment is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, means a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) Student financial aid funds appropriated for the purpose of assisting students to pay the fee required by this section may be awarded without regard to the requirements of Chapter 2 (commencing with Section 69500) of Part 42.

(j) The board of governors shall adopt regulations implementing this section.

(k) As used in this section and Section 72252.1, fee includes a surcharge.

(*l*) 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 chaptered before January 1, 1995, deletes or extends that date.

SEC. 5. Community college districts shall not include the surcharge imposed pursuant to paragraph (2) of subdivision (b) of Section 72252 when computing their budgets for the 1992–93 fiscal year.

SEC. 6. Community college districts shall provide sufficient financial aid to ensure that no student is denied access during the 1991–92 academic year due to the imposition of the surcharge pursuant to paragraph (2) of subdivision (b) of Section 72252.

The Chancellor of the Community Colleges shall provide to the Legislature and the Governor, by January 1, 1992, documentation that no student has been denied access because of the imposition of that surcharge.

SEC. 7. (a) From the appropriation set forth in Schedule (a) of Item 6870-101-001 of Section 2.00 of the Budget Act of 1991, the

Chancellor of the California Community Colleges first shall apportion the amount computed under subdivision (b) to each community college district having classified employees who are members of an employee retirement system other than the Public Employees' Retirement System if that district does not achieve any savings for the 1991–92 fiscal year as a result of the repeal of the retirement allowance adjustment programs established pursuant to Sections 21235, 21236, 21237, and 21238 of the Government Code.

(b) The amount to be apportioned to each community college district that qualifies for apportionment under subdivision (a) shall be equal to the amount of the employer contributions the district would have been required to make for the 1991–92 fiscal year had its classified employees been members of the Public Employees' Retirement System.

(c) Any increase or decrease in the amount of funding received by any community college district for the 1991–92 fiscal year that results from the apportionments authorized under subdivisions (a) and (b) shall not affect the state funding entitlement of that district for the 1992–93 fiscal year or any fiscal year thereafter.

(d) This section shall be operative only if, for the 1991–92 fiscal year, community college districts are granted relief, in whole or in part, from the obligation to make expenditures during the 1991–92 fiscal year pursuant to contracts with the Public Employees' Retirement System.

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.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health,or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure adequate sources of funding for community colleges during a period of fiscal crisis, it is necessary that this act take effect immediately.

CHAPTER 115

An act to amend Sections 11745, 11747, and 11748 of the Insurance Code, and to amend Section 3208.3 of the Labor Code, relating to workers' compensation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1991. Filed with Secretary of State July 16, 1991.]

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

SECTION 1. Section 11745 of the Insurance Code, as amended by Section 2 of Chapter 1550 of the Statutes of 1990, is amended to read:

11745. (a) There is in the Department of Insurance the Workers' Compensation Rate Study Commission, which shall be hereafter referred to in this article as the "commission." The commission shall consist of eight members, two of whom shall be appointed by the Senate Committee on Rules, two of whom shall be appointed by the Speaker of the Assembly, and four of whom shall be appointed by the Governor. Each member of the commission shall be, or shall have served as, the dean or its administrative equivalent of the school of business, public policy, or public administration at an accredited California university or be a tenured faculty member of the school of business, public policy, or public administration at an accredited California university. In no event shall a commission member have been, within the last 10 years, a full-time or part-time employee of other than an accredited educational institution. Acceptance of occasional, intermittent, outside income from consulting or public appearances shall not constitute full-time or part-time employment.

(b) The Governor shall summon the commission to its first meeting, whereupon, as its first order of business, the commission shall designate one of its members as chairperson.

(c) Members of the commission shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties and a per diem allowance of one hundred dollars ($100) for each day spent in meetings of the commission.

(d) All vacancies in commission membership shall be filled by whichever appointing authority appointed the person who vacated the position.

(e) The commission shall hold meetings as it deems necessary to fulfill its purpose. All meetings and hearings held by the commission shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(f) (1) The commission shall have the additional authority to contract with and engage the services of outside resources to conduct research, under the direction and control of the commission,

necessary to the timely completion of its purpose. However, in the event the commission exceeds its budgetary authorization in determining its research needs, the planned research may be conducted only if the Department of Insurance determines sufficient private or public funds are available in the department's current budget to cover the additional costs imposed by the research.

(2) Requests for bids, with respect to research contracts pursuant to this subdivision, shall require a bidder, and any person who would be employed by, or who would subcontract with, the bidder to provide services under the contract, to file with the commission a statement disclosing all income, as defined in Section 82030 of the Government Code, received within the three years preceding the proposed effective date of the contract.

(3) A research contract pursuant to this subdivision shall not be entered into where the bidder, or any person who would be employed by, or who would subcontract with, the bidder, for purposes of providing services under the contract, has a conflict of interest as defined in paragraph (4). This paragraph shall not apply to contracts with an actuary or actuaries.

(4) For purposes of this subdivision, a person has a "conflict of interest" if he or she has received more than 10 percent of his or her income during the three years preceding the proposed effective date of the research contract from insurers, employer organizations, labor organizations, attorneys, or physicians, or from any organization primarily funded by insurers, employers, labor organizations, attorneys, or physicians.

SEC. 2. Section 11747 of the Insurance Code is amended to read:

11747. (a) The commission shall prepare and adopt its final report and transmit it directly to the Governor, the Legislature, the Insurance Commissioner, and the Director of Industrial Relations no later than March 1, 1992.

(b) The final report shall contain an analysis of the issues specified in Section 11746 and the results of the commission's evaluation and recommendations to attain the goals specified in Section 11746.

SEC. 3. Section 11748 of the Insurance Code is amended to read:

11748. (a) The commission shall remain in existence until 90 days after submission of its report for the purpose of presenting its findings and recommendations and responding to any questions from those to whom the report was transmitted.

(b) This article shall remain in effect only until May 30, 1992, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

SEC. 4. Section 3208.3 of the Labor Code is amended to read:

3208.3. (a) A psychiatric injury shall be compensable if it is a mental disorder which causes disability or need for medical treatment, and it is diagnosed pursuant to procedures promulgated under paragraph (4) of subdivision (j) of Section 139.2 or, until these procedures are promulgated, it is diagnosed using the terminology and criteria of the American Psychiatric Association's Diagnostic and

Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.

(b) In order to establish that a psychiatric injury is compensable, an employee shall demonstrate by a preponderance of the evidence that actual events of employment were responsible for at least 10 percent of the total causation from all sources contributing to the psychiatric injury.

(c) It is the intent of the Legislature in enacting this section to establish a new and higher threshold of compensability for psychiatric injury under this division.

(d) Notwithstanding any other provision of this division, no compensation shall be paid pursuant to this division for a psychiatric injury related to a claim against an employer unless the employee has been employed by that employer for at least six months. The six months of employment need not be continuous. This subdivision shall not apply if the psychiatric injury is caused by a sudden and extraordinary employment condition as distinguished from a regular and routine event. As used in this subdivision, a "regular and routine employment event" includes, but is not limited to, a lawful, nondiscriminatory, good faith personnel action, such as discipline, work evaluation, transfer, demotion, layoff, or termination. Nothing in this subdivision shall be construed to authorize an employee, or his or her dependents, to bring an action at law or equity for damages against the employer for a psychiatric injury, where those rights would not exist pursuant to the exclusive remedy doctrine set forth in Section 3602 in the absence of the amendment of this section by the act adding this subdivision. Nothing in this section shall be construed to mean that there shall not be compensability for any psychiatric injury which is related to any physical injury in the workplace.

SEC. 5. The sum of nine hundred thousand dollars ($900,000) is hereby appropriated from the Insurance Fund to the Workers' Compensation Rate Study Commission for the 1991–92 fiscal year to fund staff and consultant positions, and incidental expenses, including, but not limited to, office expenses, per diem allowances, and traveling expenses that are necessary to achieve the goals established in Section 11746 of the Insurance 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 provide for necessary reforms with respect to workers' compensation costs and benefits as soon as possible, it is necessary that this act to take effect immediately.

CHAPTER 116

An act to amend Sections 810 , 2273, 2314, 2315, 6106.5, 6151, 6153, and 6154 of the Business and Professions Code, to amend Sections 1871, 1872, 1872.3, 1872.9, 1873.3, and 11880 of, to add Sections 750, 750.1, 750.2, 750.4, 750.5, 1871.4, and 1872.83 to, and to add Article 7 (commencing with Section 1877) to Chapter 12 of Part 2 of Division 1 of, and Article 4 (commencing with Section 11760) to Chapter 3 of Part 3 of Division 2 of, the Insurance Code, to amend Sections 4903 and 5710 of, and to add Sections 62.6, 139.4, 139.43, 139.45, 3215, 3217, 3218, 3761, 5401.7, 5803.5, and 6410.5 to the Labor Code, and to add Section 549 to the Penal Code, relating to insurance fraud.

[Approved by Governor July 16, 1991. Filed with Secretary of State July 16, 1991]

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

SECTION 1. Section 810 of the Business and Professions Code is amended to read:

810. (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any such claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.1 or 1871.4 of the Insurance Code.

(c) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

SEC. 2. Section 2273 of the Business and Professions Code is amended to read:

2273. Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

SEC. 3. Section 2314 of the Business and Professions Code is amended to read:

2314. (a) Unless it is otherwise expressly provided, any person, whether licensed under this chapter or not, who violates any provision of this article is guilty of a misdemeanor.

(b) A person, whether licensed under this chapter or not, who

violates Section 2273 is punishable pursuant to subdivision (b) of Section 2315.

SEC. 4. Section 2315 of the Business and Professions Code is amended to read:

2315. (a) Except as otherwise provided by law, any person found guilty of a misdemeanor for a violation of this chapter shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200) or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both such fine and imprisonment.

(b) A violation of Section 2273 is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year. A second or subsequent conviction is punishable by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months or 2 or 3 years, or by a fine not exceeding ten thousand dollars ($10,000) or by both the fine and imprisonment.

SEC. 5. Section 6106.5 of the Business and Professions Code is amended to read:

6106.5. It shall constitute cause for disbarment or suspension for an attorney to engage in any conduct prohibited under Section 1871.1 or 1871.4 of the Insurance Code.

SEC. 6. Section 6151 of the Business and Professions Code is amended to read:

6151. As used in this article:

(a) A runner or capper is any person, firm, association or corporation acting for consideration in any manner or in any capacity as an agent for an attorney at law or law firm, whether the attorney or any member of the law firm is admitted in California or any other jurisdiction, in the solicitation or procurement of business for the attorney at law or law firm as provided in this article.

(b) An agent is one who represents another in dealings with one or more third persons.

SEC. 7. Section 6153 of the Business and Professions Code is amended to read:

6153. Any person, firm, partnership, association, or corporation violating subdivision (a) of Section 6152 is punishable, upon a first conviction by imprisonment in a county jail for not more than one year. Upon a second or subsequent conviction, a person, firm, partnership, association, or corporation is punishable by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for 16 months or 2 or 3 years, or by a fine of up to ten thousand dollars ($10,000), or by both that imprisonment and fine.

Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of the provisions of this article, shall forfeit the right to his office and employment in addition to any other penalty provided in this

article.

SEC. 8. Section 6154 of the Business and Professions Code is amended to read:

6154. Any contract for professional services secured by any attorney at law or law firm in this state through the services of a runner or capper is void. In any action against any attorney or law firm under the Unfair Practices Act, Chapter 4 (commencing with Section 17000) of Division 7, any judgment shall include an order divesting the attorney or law firm of any fees and other compensation received pursuant to any such void contract. Those fees and compensation shall be recoverable as additional civil penalties under the Unfair Practices Act.

SEC. 9. Section 750 is added to the Insurance Code, to read:

750. Except as provided in Section 750.5, any person acting individually or through his or her employees or agents, who engages in the practice of processing, presenting, or negotiating claims, including claims under policies of insurance, and who offers, delivers, receives, or accepts any rebate, refund, commission, or other consideration, whether in the form of money or otherwise as compensation or inducement to or from any person for the referral or procurement of clients, cases, patients, or customers, is guilty of a crime. Nothing in this section shall prohibit a licensed collection or lien agency from receiving a commission on the collection of delinquent debts nor prohibits the agency from paying its employees a commission for obtaining clients seeking collection on delinquent debts.

SEC. 10. Section 750.4 is added to the Insurance Code, to read:

750.4. Section 750 of the Insurance Code or Section 549 of the Penal Code shall not apply to any person, corporation, partnership, association, or firm, which both of the following:

(a) Operating on behalf of an insurer or self-insured person, company, association, or group.

(b) Operating pursuant to and within the scope of a certificate of consent issued pursuant to Section 3702.1 of the Labor Code or pursuant to and within the scope of a license issued pursuant to Article 3 (commencing with Section 14000) of Chapter 1 of Division 5.

SEC. 11. Section 750.5 is added to the Insurance Code, to read:

750.5. Nothing in Section 750 of the Insurance Code or Section 549 of the Penal Code shall be construed to prevent an attorney or law firm from the following:

(a) Dividing fees for legal services with a lawyer under circumstances expressly permitted by Rule 2-200 of the Rules of Professional Conduct of the State Bar.

(b) Offering or giving an incidental nonmonetary gift or gratuity to a person who has made a recommendation resulting in the employment of the attorney or law firm, provided that the gift or gratuity was not offered in consideration of any promise, agreement, or understanding that the gift or gratuity would be forthcoming or

that referrals would be made or encouraged in the future.

(c) Offering or giving a bonus to an employee who has made a referral or recommendation resulting in the employment of the attorney or law firm, provided that the bonus was not offered in consideration of any promise, agreement, or understanding that the bonus would be forthcoming or that referrals or recommendations would be made or encouraged in the future.

SEC. 12. Section 1871 of the Insurance Code is amended to read:

1871. The Legislature finds and declares as follows:

(a) That the business of insurance involves many transactions which have potential for abuse and illegal activities. There are numerous law enforcement agencies on the state and local levels charged with the responsibility for investigating and prosecuting fraudulent activity. This chapter is intended to permit the full utilization of the expertise of the commissioner and the department so that they may more effectively investigate and discover insurance frauds, halt fraudulent activities, and assist and receive assistance from federal, state, local, and administrative law enforcement agencies in prosecution of persons who are parties in insurance frauds.

(b) That insurance fraud is a particular problem for automobile policyholders; fraudulent activities account for 15 to 20 percent of all auto insurance payments. Automobile insurance fraud is the biggest and fastest growing segment of insurance fraud and contributes substantially to the high cost of automobile insurance with particular significance in urban areas.

(c) That prevention of automobile insurance fraud will significantly reduce the incidence of severity and automobile insurance claim payments and will therefore produce a commensurate reduction in automobile insurance premiums.

(d) That workers' compensation fraud harms employers by contributing to the increasingly high cost of workers' compensation insurance and self-insurance and harms employees by undermining the perceived legitimacy of all workers' compensation claims.

(e) That prevention of workers' compensation insurance fraud may reduce the number of workers' compensation claims and claim payments thereby producing a commensurate reduction in workers' compensation costs. Prevention of workers' compensation insurance fraud will assist in restoring confidence and faith in the workers' compensation system, and will facilitate expedient and full compensation for employees injured at the workplace.

SEC. 13. Section 1871.4 is added to the Insurance Code, to read:

1871.4. (a) It is unlawful to do any of the following:

(1) Make or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code.

(2) Present or cause to be presented any knowingly false or fraudulent written or oral material statement in support of, or in

opposition to, any claim for compensation for the purpose of obtaining or denying any compensation, as defined in Section 3207 of the Labor Code.

(3) Knowingly assist, abet, solicit, or conspire with any person who engages in an unlawful act under this section.

(4) Make or cause to be made any knowingly false or fraudulent statements with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim.

For the purposes of this subdivision, "statement" includes, but is not limited to, any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-ray, test results, medical-legal expense as defined in Section 4620 of the Labor Code, other evidence of loss, injury, or expense, or payment.

(b) Every person who violates any provision of this section shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000) or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

(c) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 of the Penal Code, shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (b). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 14. Section 1872 of the Insurance Code is amended to read:

1872. There is created within the department a Bureau of Fraudulent Claims to enforce the provisions of Sections 1871.1 and 1871.4 and to administer the provisions of Article 3 (commencing with Section 1873).

SEC. 15. Section 1872.3 of the Insurance Code is amended to read:

1872.3. (a) If by its own inquiries or as a result of complaints, the Bureau of Fraudulent Claims has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates Section 1871.1 or 1871.4, the commissioner in his or her discretion (1) may make those public or private investigations within or outside of this state that he or she deems necessary to determine whether any person has violated or is about to violate any provision of Section 1871.1 or 1871.4, or to aid in the enforcement of this chapter, and (2) may publish information concerning any violation of this chapter.

(b) For purposes of any investigation under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books,

papers, correspondence, memoranda, agreements, or other documents or records that the commissioner deems relevant or material to the inquiry, as provided by Section 12924.

(c) If any matter that the commissioner seeks to obtain by request is located outside the state, the person so requested may make it available to the commissioner or his or her representative to be examined at the place where it is located. The commissioner may designate representatives, including officials of the state in which the matter is located, to inspect the matter on his or her behalf, and he or she may respond to similar requests from officials of other states.

(d) Except as provided in subdivision (e), the department's papers, documents, reports, or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long a period as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to serve the public interest. Furthermore, those papers, documents, reports, or evidence shall not be subject to subpoena or subpoena duces tecum until opened for public inspection by the commissioner, unless the commissioner otherwise consents or, after notice to the commissioner and a hearing, the superior court determines that the public interest and any ongoing investigation by the commissioner would not be unnecessarily jeopardized by compliance with the subpoena duces tecum.

(e) The Bureau of Fraudulent Claims shall furnish all papers, documents, reports, complaints, or other facts or evidence to any police, sheriff, or other law enforcement agency, when so requested, and shall assist and cooperate with those law enforcement agencies.

SEC. 16. Section 1872.83 is added to the Insurance Code, to read:

1872.83. (a) The commissioner shall ensure that the Bureau of Fraudulent Claims aggressively pursues all reported incidents of probable workers' compensation fraud, as defined in subdivision (a) of Section 1871.4, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Bureau of Fraudulent Claims shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fradulent denial of claims.

(b) To fund increased investigation and prosecution of workers' compensation fraud, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of five members consisting of two representatives of self-insured employers, one representative of insured employers, one representative of workers' compensation insurers, and the President of the State Compensation Insurance

Fund, or his or her designee.

The Governor shall appoint members representing self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. The President of the State Compensation Insurance Fund shall be an ex officio, voting member of the commission.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Bureau of Fraudulent Claims and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Section 1871.4, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and may be used, upon appropriation by the Legislature, only for enhanced workers' compensation fraud investigation and prosecution as provided in this section.

(c) (1) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Section 1871.4, not be less than three million dollars ($3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated shall be applied to satisfy for the immediately following fiscal year the minimum total amount required by this subdivision.

(2) This subdivision shall cease to be operative on January 1, 1994, unless a later enacted statute, enacted prior to January 1, 1994, deletes or extends that date.

(d) After incidental expenses, 50 percent of the funds to be used for the purposes of this section shall be provided to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts and 50 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner, with the advice and consent of the bureau and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers' compensation insurance fraud cases. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail their proposed use of any funds provided. Any district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of their efforts. Upon receipt, the commissioner shall provide copies to the bureau and the Fraud

Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. These documents shall be public records.

SEC. 17. Section 1872.9 of the Insurance Code is amended to read:

1872.9. The Bureau of Fraudulent Claims shall annually compile and report, as a part of the commissioner's annual report as required by Section 12922, the following information:

(a) The number of cases reported to the bureau pursuant to this chapter.

(b) The number of cases rejected for which an investigation was not initiated by the bureau due to insufficient evidence to proceed and the number of cases rejected for which an investigation was not initiated by the bureau due to any other reason.

(c) The number of cases that were prosecuted in cooperation with licensing agencies governed by the Business and Professions Code.

(d) The number and kind of cases prosecuted as a result of moneys received under Section 1872.7.

(e) An estimate of the economic value of insurance fraud by type of insurance fraud.

(f) Recommendations on ways insurance fraud may be reduced.

(g) A summary of the bureau's activities with respect to pursuing a reduction of fraud with all of the following:

(1) Insurance companies.

(2) The Department of Motor Vehicles.

(3) The Department of the California Highway Patrol.

(4) Licensing agencies governed by the Business and Professions Code.

(5) The Department of Insurance.

(6) Local and state law enforcement agencies.

(7) Employers, as defined in Section 3300 of the Labor Code, who are self-insured for workers' compensation and doing business in the state.

(h) Basic claims information including trends of payments by type of claim and other claim information that is generally provided in a closed claim study.

(i) A summary of the bureau's activities with respect to the reduction pursuant to Section 1871.4 of fraudulent denials and payments of compensation.

(j) The number and types of cases investigated and prosecuted with funds specified in Section 1872.83.

SEC. 18. Section 1873.3 of the Insurance Code is amended to read:

1873.3. (a) For purposes of this article and Article 2 (commencing with Section 1872), "insurance fraud" does not include motor vehicle theft and motor vehicle insurance fraud reporting subject to the provisions of Article 4 (commencing with Section 1874), or workers' compensation insurance fraud reporting subject to Article 7 (commencing with Section 1877).

(b) As used in this article, "authorized governmental agency" means the Department of the California Highway Patrol, the Department of Motor Vehicles, the Department of Insurance, the Department of Justice, the police department of a city, or a city and county, the sheriff's office or department of a county, the district attorney of any county, or city and county, those agencies employing officers designated in subdivisions (a) and (b) of Section 830.1, subdivision (a) of Section 830.2, and subdivisions (b), (d), and (k) of Section 830.3 of the Penal Code, any other law enforcement agency of this state or any city or county, or city and county, and any licensing agency governed by the Business and Professions Code.

SEC. 19. Article 7 (commencing with Section 1877) is added to the Chapter 12 of Part 2 of Division 1 of the Insurance Code, to read:

Article 7. Workers' Compensation Insurance Fraud Reporting

1877. This article shall be known and may be cited as the Workers' Compensation Insurance Fraud Reporting Act.

1877.1. The following definitions govern the construction of this article, unless the context requires otherwise:

(a) "Authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Insurance, the Department of Industrial Relations, and any licensing agency governed by the Business and Professions Code.

(b) "Relevant" means having a tendency to make the existence of any fact that is of consequence to the investigation or determination of an issue more probable or less probable than it would be without the information.

(c) "Insurer" means an insurer admitted to transact workers' compensation insurance in this state, an employer that has secured a certificate of consent to self-insure pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code, or a third-party administrator that has secured a certificate pursuant to Section 3702.1 of the Labor Code.

(d) Information shall be deemed important if, within the sole discretion of the authorized governmental agency, that information is requested by that authorized governmental agency.

1877.3. (a) Upon written request to an insurer by an authorized governmental agency, an insurer, or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency that the insurer may possess relating to any specific workers' compensation insurance fraud investigation.

(b) (1) When an insurer knows or reasonably believes it knows the identity of a person whom it has reason to believe committed a fraudulent act relating to a workers' compensation insurance claim or has knowledge of such a fraudulent act that is reasonably believed

not to have been reported to an authorized governmental agency, then, for the purpose of notification and investigation, the insurer, or agent authorized by an insurer to act on its behalf, shall notify the local district attorney's office or the Bureau of Fraudulent Claims of the Department of Insurance, and may notify any other authorized governmental agency of that knowledge or reasonable belief and provide any additional information in accordance with subdivision (a). The insurer shall state in its notice the basis of its knowledge or reasonable belief.

(2) Nothing in this subdivision shall abrogate or impair the rights or powers created under subdivision (a).

(c) The authorized governmental agency provided with information pursuant to subdivision (a) or (b) may release or provide that information in a confidential manner to any other authorized governmental agency for purposes of investigation, prosecution, or prevention of insurance fraud.

(d) An insurer providing information to an authorized governmental agency pursuant to this section shall provide the information within a reasonable time, but not to exceed 30 days from the day on which the duty arose.

1877.4. (a) Any information acquired pursuant to this article shall not be a part of the public record. Except as otherwise provided by law, any authorized governmental agency, an insurer, or an agent authorized to act on its behalf, which receives any information furnished pursuant to this article shall not release that information to any person not authorized to receive the information under this article. Any person who violates the prohibition of this subdivision is guilty of a misdemeanor.

(b) The evidence or information described in this section shall be privileged and shall not be subject to subpoena or subpoena duces tecum in a civil or criminal proceeding, unless, after reasonable notice to any insurer, an agent authorized by an insurer to act on its behalf, or an authorized governmental agency which has an interest in the information, and a hearing, the court determines that the public interest and any ongoing investigation by the authorized governmental agency, insurer, or an agent authorized by the insurer to act on its behalf will not be jeopardized by its disclosure, or by the issuance of and compliance with a subpoena or subpoena duces tecum.

1877.5. No insurer, or agent authorized by an insurer to act on its behalf, who furnishes information, written or oral, pursuant to this article, and no authorized governmental agency or its employees who (a) furnishes or receives information, written or oral, pursuant to this article, or (b) assists in any investigation of a suspected violation of Section 1871.1 or 1871.4 conducted by an authorized governmental agency shall be subject to any civil liability in a cause or action of any kind where the insurer, authorized agent, or authorized governmental agency acts in good faith, without malice, and reasonably believes that the action taken was warranted by the

then known facts, obtained by reasonable efforts. Nothing in this chapter is intended to, nor does in any way or manner, abrogate or lessen the existing common law or statutory privileges and immunities of an insurer, agent authorized by that insurer to act on its behalf, or any authorized governmental agency or its employees.

SEC. 20. Article 4 (commencing with Section 11760) is added to Chapter 3 of Part 3 of Division 2 of the Insurance Code, to read:

Article 4. Penalties for Misrepresentation

11670. (a) Any person who willfully misrepresents any fact in order to obtain workers' compensation insurance at less than the proper rate for that insurance shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

(b) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (b). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 21. Section 11880 of the Insurance Code is amended to read:

11880. (a) Any person who willfully misrepresents any fact in order to obtain insurance from the fund at less than the proper rate for that insurance shall be punished by imprisonment in county jail for one year, or in the state prison, for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

(b) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision shall receive a two-year enhancement for each prior conviction in addition to the sentence provided in subdivision (b). The existence of any fact that would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 22. Section 62.6 is added to the Labor Code, to read:

62.6. The director shall, in addition to the assessment levied pursuant to Section 62.5, assess a surcharge as necessary to collect the aggregate amount determined by the Insurance Commissioner

pursuant to Section 1872.83 of the Insurance Code. The surcharge shall be collected on the same basis and in the same manner as the assessment levied pursuant to Section 62.5, but shall be separately stated and identified as the "State Fraud Investigation and Prosecution Surcharge." Revenues derived from the surcharge shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and shall only be expended, upon appropriation by the Legislature, for the investigation and prosecution of workers' compensation fraud as prescribed by Section 1872.83 of the Insurance Code.

SEC. 23. Section 139.4 is added to the Labor Code, to read:

139.4. (a) The Industrial Medical Council may review advertising copy to ensure compliance with Section 651 of the Business and Professions Code and may require qualified medical evaluators to maintain a file of all advertising copy for a period of 90 days from the date of its use. Any file so required to be maintained shall be available to the council upon the council's request for review.

(b) No advertising copy shall be used after its use has been disapproved by the Industrial Medical Council and the qualified medical evaluator has been notified in writing of the disapproval.

(c) A qualified medical evaluator who is found by the Industrial Medical Council to have violated any provision of this section may be terminated, suspended, or placed on probation by the council.

(d) Proceedings to determine whether a violation of this section has occurred shall be conducted pursuant to Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) As soon as reasonably possible, but not later than January 1, 1993, the Industrial Medical Council shall adopt regulations governing advertising by physicians with respect to industrial injuries or illnesses. The council shall report to the Assembly Insurance Committee and the Senate Industrial Relations Committee on July 1, 1992, and on January 1, 1993, with respect to its progress in adopting these regulations. In promulgating regulations pursuant to this subdivision, the council shall review existing regulations, including regulations adopted by the State Bar, to identify those existing regulatory approaches that may serve as a model for regulations required by this subdivision.

(f) Subdivision (a) shall not be construed to alter the application of Section 651 of the Business and Professions Code.

SEC. 24. Section 139.43 is added to the Labor Code, to read:

139.43. (a) No person or entity shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement concerning services or benefits to be provided to an injured worker, that is paid for directly or indirectly by that person or entity and is false, misleading, or deceptive, or that omits material information necessary to make the statement therein not false, misleading, or deceptive.

(b) As soon as reasonably possible, but not later than January 1, 1993, the Department of Consumer Affairs shall adopt regulations governing advertising by persons or entities other than physicians and attorneys with respect to services or benefits for injured workers. The department shall report to the Assembly Insurance Committee and the Senate Industrial Relations Committee on July 1, 1992, and on January 1, 1993, with respect to its progress in adopting these regulations. In promulgating regulations pursuant to this subdivision, the department shall review existing regulations, including those adopted by the State Bar, to identify those regulatory approaches that may serve as a model for regulations required by this subdivision.

(c) A violation of subdivision (a) is a misdemeanor, punishable by incarceration in the county jail for not more than one year, or by a fine not exceeding ten thousand dollars ($10,000), or both.

(d) This section shall not apply to physicians or attorneys. It is the intent of the Legislature to exempt physicians and attorneys from this section because the conduct regulated by this section, with respect to physicians and attorneys, is governed by other provisions of law.

SEC. 25. Section 139.45 is added to the Labor Code, to read:

139.45. (a) In promulgating regulations pursuant to Sections 139.4 and 139.43, the Industrial Medical Council and the Department of Consumer Affairs shall take particular care to preclude any advertisements with respect to industrial injuries or illnesses that are false or mislead the public with respect to workers' compensation. In promulgating rules with respect to advertising, the State Bar and physician licensing boards shall also take particular care to achieve the same goal.

(b) For purposes of subdivision (a), false or misleading advertisements shall include advertisements that do any of the following:

(1) Contain an untrue statement.

(2) Contain any matter, or present or arrange any matter in a manner or format that is false, deceptive, or that tends to confuse, deceive, or mislead.

(3) Omit any fact necessary to make the statement made, in the light of the circumstances under which the statement is made, not misleading.

(4) Are transmitted in any manner that involves coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.

(5) Entice a person to respond by the offering of any consideration, including a good or service but excluding free medical evaluations or treatment, that would be provided either at no charge or for less than market value. No free medical evaluation or treatment shall be offered for the purpose of defrauding any entity.

SEC. 26. Section 3215 is added to the Labor Code, to read:

3215. Except as otherwise permitted by law, any person acting individually or through his or her employees or agents, who offers,

delivers, receives, or accepts any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring clients or patients to perform or obtain services or benefits pursuant to this division, is guilty of a crime.

SEC. 27. Section 3217 is added to the Labor Code, to read:

3217. (a) Section 3215 shall not be construed to prevent the recommendation of professional employment where that recommendation is not prohibited by the Rules of Professional Conduct of the State Bar.

(b) Section 3215 shall not be construed to prohibit a public defender or assigned counsel from making known his or her availability as a criminal defense attorney to persons unable to afford legal counsel, whether or not those persons are in custody.

(c) Section 3215 shall not apply to physicians or attorneys, but shall apply to any other person or entity engaging in the conduct prohibited by those sections. It is the intent of the Legislature to exempt physicians and attorneys from Section 3215 because the conduct regulated by this section, with respect to physicians and attorneys, is governed by other provisions of law.

SEC. 28. Section 3218 is added to the Labor Code, to read:

3218. A violation of Section 3215 is a public offense punishable upon a first conviction by incarceration in the county jail for not more than one year, or by incarceration in the state prison, or by a fine not exceeding ten thousand dollars ($10,000), or by both incarceration and fine. A second or subsequent conviction is punishable by incarceration in state prison.

SEC. 29. Section 3761 is added to the Labor Code, to read:

3761. An insurer securing an employer's liability under this division shall notify the employer, within 15 days, of each claim for indemnity filed against the employer directly with the insurer if the employer has not timely provided to the insurer a report of occupational injury or occupational illness pursuant to Section 6409.1. The insurer shall furnish an employer who has not filed this report with an opportunity to provide to the insurer, prior to the expiration of the 90-day period specified in Section 5402, all relevant information available to the employer concerning the claim.

SEC. 30. Section 4903 of the Labor Code is amended to read:

4903. The appeals board may determine, and allow as liens against any sum to be paid as compensation, any amount determined as hereinafter set forth in subdivisions (a) through (i). If more than one such lien be allowed, the appeals board may determine the priorities, if any, between the liens allowed. The liens which may be allowed hereunder are as follows:

(a) A reasonable attorney's fee for legal services pertaining to any claim for compensation either before the appeals board or before any of the appellate courts, and the reasonable disbursements in connection therewith. No fee for legal services shall be awarded to any representative who is not an attorney.

(b) The reasonable expense incurred by or on behalf of the injured employee, as provided by Article 2 (commencing with Section 4600) and, to the extent the employee is entitled to reimbursement under Section 4621, medical-legal expenses as provided by Article 2.5 (commencing with Section 4620) of Chapter 2 of Part 2.

(c) The reasonable value of the living expenses of an injured employee or of his or her dependents, subsequent to the injury.

(d) The reasonable burial expenses of the deceased employee, not to exceed the amount provided for by Section 4701.

(e) The reasonable living expenses of the spouse or minor children of the injured employee, or both, subsequent to the date of the injury, where the employee has deserted or is neglecting his or her family. These expenses shall be allowed in such proportion as the appeals board deems proper, under application of the spouse, guardian of the minor children, or the assignee, pursuant to subdivision (a) of Section 11477 of the Welfare and Institutions Code, of the spouse, a former spouse, or minor children.

(f) The amount of unemployment compensation disability benefits which have been paid under or pursuant to the Unemployment Insurance Code in those cases where, pending a determination under this division there was uncertainty whether such benefits were payable under the Unemployment Insurance Code or payable hereunder; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(g) The amount of unemployment compensation benefits and extended duration benefits paid to the injured employee for the same day or days for which he or she receives, or is entitled to receive, temporary total disability indemnity payments under this division; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(h) The amount of indemnification granted pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(i) The amount of compensation, including expenses of medical treatment, and recoverable costs which have been paid by the Asbestos Workers' Account pursuant to the provisions of Chapter 11 (commencing with Section 4401) of Part 1.

SEC. 31. Section 5401.7 is added to the Labor Code, to read:

5401.7. The forms set forth in Sections 5401, 5401.5, and 5401.6 shall contain, prominently stated, the following statement:

"Any person who makes or cause to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony."

SEC. 32. Section 5710 of the Labor Code is amended to read:

5710. (a) The appeals board, a workers' compensation judge, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses

residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a workers' compensation judge in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear workers' compensation matters in those other jurisdictions.

(b) Where the employer or insurance carrier requests a deposition to be taken of an injured employee, or any person claiming benefits as a dependent of an injured employee, the deponent is entitled to receive in addition to all other benefits:

(1) All reasonable expenses of transportation, meals and lodging incident to the deposition.

(2) Reimbursement for any loss of wages incurred during attendance at the deposition.

(3) A copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney's fees for the deponent, if represented by an attorney licensed by the state bar of this state. The fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his or her insurer.

SEC. 33. Section 5803.5 is added to the Labor Code, to read:

5803.5. Any conviction pursuant to Section 1871.4 of the Insurance Code that materially affects the basis of any order, decision, or award of the appeals board shall be sufficient grounds for a reconsideration of that order, decision, or award.

SEC. 34. Section 6410.5 is added to the Labor Code, to read:

6410.5. The reports required by subdivision (a) of Section 6409, subdivision (a) of Section 6409.1, and Section 6413 shall contain, prominently stated, the statement set forth in Section 5401.7.

SEC. 35. Section 549 is added to the Penal Code, to read:

549. Any firm, corporation, partnership, or association, or any person acting in his or her individual capacity, or in his or her capacity as a public or private employee, who solicits or refers any business to any individual or entity with the knowledge that, or with reckless disregard for whether, the individual or entity for whom the solicitation or referral is made, or the individual or entity who is solicited or referred, intends to violate Section 1871.1 or 1871.4 of the Insurance Code is guilty of a crime, punishable upon a first conviction by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months 2 or 3 years, or by a fine not exceeding then thousand dollars ($10,000), or by both that fine and imprisonment. A second or subsequent conviction is by imprisonment in the state prison for 16 months or 2 or 3 years, or by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment.

SEC. 36. 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 117

An act to amend Sections 6051, 6201, 17024.5, 17029, 17041, 17052.12, 17058, 17062, 17088, 17137, 17250, 17252.5, 17265, 17270, 17276, 17276.1, 17560, 18006, 18037, 18682, 18806, 18831, 19269, 23051.5, 23053, 23455, 23456, 23457, 23459, 23609, 23610.5, 23701, 23801, 23802, 24271, 24307, 24310, 24349, 24356.2, 24356.3, 24357.7, 24357.8, 24368.1, 24383, 24416, 24416.1, 24422, 24434, 24438, 24440, 24632, 24673.2, 24685, 24990.7, 25111, 25901b, 25935, 25940, 25953, 25954, and 26251 of, to amend, repeal, and add Section 17053.5 of, to add Sections 6051.3, 6051.4, 6201.3, 6201.4, 17077, 17144, 17276.3, 23049.1, 23049.2, and 24416.3 to, to add and repeal Sections 17054.1, 18682.6, 18682.7, and 25951.6 of, to repeal and add Chapter 8 (commencing with Section 24451) of Part 11 of Division 2 of, to repeal and add Sections 18802.7, 24347, and 24621 of, to repeal Sections 17060, 17273, 17514, 17684, 24349.5, 24352.1, 24354.2, 24354.3, 24354.4, 24435, 24622, 24834, 24953, and 24953.5 of, to repeal Chapter 16 (commencing with Section 18351) of Part 10 of Division 2 of, and to repeal Chapter 9 (commencing with Section 24501), Chapter 10 (commencing with Section 24521), Chapter 11 (commencing with Section 24570), Chapter 11.5 (commencing with Section 24580), Chapter 11.8 (commencing with Section 24591), Article 6 (commencing with Section 24999) of Chapter 15, Chapter 16 (commencing with Section 25001), and Chapter 18 (commencing with Section 25201), of Part 11 of Division 2 of, the Revenue and Taxation Code, and to amend Section 13043 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 16, 1991 Filed with Secretary of State July 16, 1991.]

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

SECTION 1. This act shall be known and may be cited as the "Klehs-Alquist Tax Conformity Act of 1991."

SEC. 2. Section 6051 of the Revenue and Taxation Code, as amended by Chapter 88 of the Statutes of 1991, is amended to read:

6051. For the privilege of selling tangible personal property at

retail a tax is hereby imposed upon all retailers at the rate of 2½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 percent thereafter, and at the rate of 2½ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3¾ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4¾ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3¾ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4¾ percent thereafter.

SEC. 3. Section 6051.3 is added to the Revenue and Taxation Code, to read:

6051.3. In addition to the taxes imposed by Sections 6051, 6051.2, 6051.5, and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ¼ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991, and during any period in which this section is operative pursuant to Section 6051.4.

SEC. 4. Section 6051.4 is added to the Revenue and Taxation Code, to read:

6051.4. (a) Section 6051.3 shall be operative with respect to the sale of all tangible personal property sold at retail in this state on or after July 15, 1991, but shall cease to be operative during any period described in subdivision (c) or (d).

(b) On or before November 1, 1993, and on or before every November 1 thereafter, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board both of the following:

(1) Whether the amount in the Special Fund for Economic Uncertainties, as established pursuant to Section 16418 of the Government Code, as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year.

(2) Whether the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without inclusion of any revenue derived pursuant to Section 6051.3 on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.

(c) Section 6051.3 shall cease to be operative on and after January 1, 1994, if on or before November 1, 1993, the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.

(d) Section 6051.3 shall cease to be operative on and after January 1 following any November 1 in which Section 6051.3 is operative and

the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.

(e) Section 6051.3 shall become operative on and after January 1 following any November 1 in which Section 6051.3 is inoperative and the Director of Finance certifies pursuant to paragraph (2) of subdivision (b) that the estimated amount does not exceed 4 percent of the General Fund revenues as of June 30 of the current fiscal year.

SEC. 5. Section 6201 of the Revenue and Taxation Code, as amended by Chapter 88 of the Statutes of 1991, is amended to read:

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1935, for storage, use, or other consumption in this state at the rate of 3 percent of the sales price of the property, and at the rate of 2½ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3¾ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4¾ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3¾ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4¾ percent thereafter.

SEC. 6. Section 6201.3 is added to the Revenue and Taxation Code, to read:

6201.3. In addition to the taxes imposed by Sections 6201, 6201.2, 6201.5, and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on an after July 15, 1991, and purchased during any period in which this section is operative pursuant to Section 6201.4 at the rate of ¼ percent of the sales price of the property.

SEC. 7. Section 6201.4 is added to the Revenue and Taxation Code, to read:

6201.4. (a) Section 6201.3 shall be operative with respect to the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after July 15, 1991, but shall cease to be operative during any period described in subdivision (c) or (d).

(b) On or before November 1, 1993, and on or before every November 1 thereafter, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board both of the following:

(1) Whether the amount in the Special Fund for Economic Uncertainties, as established pursuant to Section 16418 of the Government Code, as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year.

(2) Whether the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without inclusion of any revenue derived pursuant to Section 6201.3 on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.

(c) Section 6201.3 shall cease to be operative on and after January 1, 1994, if on or before November 1, 1993, the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.

(d) Section 6201.3 shall cease to be operative on and after January 1 following any November 1 in which Section 6201.3 is operative and the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.

(e) Section 6201.3 shall become operative on and after January 1 following any November 1 in which Section 6201.3 is inoperative and the Director of Finance certifies pursuant to paragraph (2) of subdivision (b) that the estimated amount does not exceed 4 percent of the General Fund revenues as of June 30 of the current fiscal year.

SEC. 8. 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 Decem-	

ber 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, and on or before December 31, 1990	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991	January 1, 1991

(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.

(6) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision that refers 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) Federal tax credits and carryovers of federal tax credits, except as provided in Section 162(*l*)(3) of the Internal Revenue Code, relating to coordination with medical deduction, etc., and Section 213(f) of the Internal Revenue Code, relating to coordination with health insurance credit under Section 32 of the Internal Revenue Code.

(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. 9. Section 17029 of the Revenue and Taxation Code is amended to read:

17029. The repeal of any provision of the Personal Income Tax Law shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal; but all rights and liabilities under such law shall continue, and may be enforced in the same manner, as if such repeal had not been made.

SEC. 10. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650

Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thousand dollars ($100,000) but not over two hundred thousand dollars ($200,000), the tax rate is 10 percent of the excess over one hundred thousand dollars ($100,000).

(ii) For that portion of taxable income that is over two hundred thousand dollars ($200,000), the tax rate is 11 percent of the excess over two hundred thousand dollars ($200,000).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

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

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300

Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thirty-six thousand one hundred fifteen dollars ($136,115) but not over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 10 percent of the excess over one hundred thirty-six thousand one hundred fifteen dollars ($136,115).

(ii) For that portion of taxable income that is over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 11 percent of the excess over two hundred seventy-two thousand two hundred thirty dollars ($272,230).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

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

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

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

(g) (1) For purposes of this section, the taxation of the unearned income of a minor child who has not attained age 14 before the close of the taxable year and who has a parent living at the close of the taxable year shall be determined in accordance with Section 1 (g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income.

(2) Section 1g7(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for purposes of this part, by substituting "five dollars ($5)" for "seventy-five dollars ($75)" and "1 percent" for "15 percent."

(3) Paragraph (1) shall not apply if both of the following are true:

(A) The adjusted gross income of the minor child does not exceed the maximum amount for which the percentage of credit is 100 percent under subdivision (b) of Section 17069 (as adjusted by subdivision (g) of Section 17069).

(B) The minor child is qualified for the low-income tax credit allowed by Section 17069.

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, only those items of adjusted gross income which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "California adjusted gross income" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at adjusted gross income.

SEC. 11. 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, 1998, 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, 1998.

(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, 1998, and ends after December 31, 1997, 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, 1998, 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, 1998, and ends after December 31, 1997, 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, 1998, 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, 1998, 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. 12. 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 amount of the credit shall be as follows:

(1) For married couples filing joint returns, heads of household and surviving spouses (as defined in Section 17046) the credit shall be as follows:

(A) One hundred twenty dollars ($120) if adjusted gross income is forty thousand dollars ($40,000), or less.

(B) Sixty dollars ($60) if adjusted gross income is greater than forty thousand dollars ($40,000), but less than forty-one thousand one dollars ($41,001).

(C) No credit shall be allowed if adjusted gross income is equal to or greater than forty-one thousand one dollars ($41,001).

(2) For other individuals, the credit shall be as follows:

(A) Sixty dollars ($60) if adjusted gross income is twenty thousand dollars ($20,000), or less.

(B) Thirty dollars ($30) if adjusted gross income is greater than twenty thousand dollars ($20,000), but less than twenty thousand five hundred one dollars ($20,501).

(C) No credit shall be allowed if adjusted gross income is equal to

or greater than twenty thousand five hundred one dollars ($20,501).

(b) Except as provided in subdivision (c), 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 (f).

(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 (f).

(c) 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 subdivisions (a) and (b).

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) For each taxable year beginning on or after January 1, 1992, the Franchise Tax Board shall recompute the adjusted gross income amounts set forth in subdivision (a). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the amounts in the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the amounts pursuant to this subdivision, the amounts provided in paragraph (1) of subdivision (a) shall be twice the amount provided in paragraph (2) of subdivision (a).

(*l*) (1) The amendments to this section by the act adding this subdivision shall be applicable to taxable years beginning on and after January 1, 1991, and before January 1, 1996.

(2) This section shall remain in effect until December 1, 1996, and as of that date is repealed.

SEC. 12.5. Section 10753.5 is added to the Revenue and Taxation Code, to read:

10753.5. (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.

(j) This section shall become operative on January 1, 1996, and shall apply to any taxable year beginning on and after January 1, 1996.

SEC. 13. Section 17054.1 is added to the Revenue and Taxation Code, to read:

17054.1. (a) (1) In the case of any taxpayer whose federal adjusted gross income for the taxable year exceeds the threshold amount, each credit to which this section applies shall be reduced by six dollars ($6) for each two thousand five hundred dollars ($2,500), or fraction thereof, by which the taxpayer's federal adjusted gross income exceeds the threshold amount.

(2) In the case of credit allowed by subdivision (b) of Section 17054 (relating to joint returns and surviving spouses), the "six dollars ($6)" referred to in paragraph (1) shall be applied by substituting "twelve dollars ($12)."

(3) In the case of a married individual filing a separate return, the "two thousand five hundred dollars ($2,500)" referred to in paragraph (1) shall be applied by substituting one "thousand two hundred fifty dollars ($1,250)."

(4) Under no circumstances shall any credit reduced by paragraph (1) be reduced below zero.

(b) For purposes of this section, "threshold amount" means the following:

(1) Two hundred thousand dollars ($200,000) in the case of a joint return or a surviving spouse, as defined by Section 17046.

(2) One hundred fifty thousand dollars ($150,000) in the case of a head of a household, as defined by Section 17042.

(3) One hundred thousand dollars ($100,000) in the case of an individual who is not married and who is not a surviving spouse or head of a household.

(4) One hundred thousand dollars ($100,000) in the case of a married individual filing a separate return.

(c) This section shall apply to the following credits:

(1) Each of the credits allowed by Section 17054.

(2) The credit allowed by Section 17054.6.

(d) In the case of a taxpayer filing a nonresident or part-year resident return, the reduction of exemption credits, as provided by this section, shall be applicable to the tax computed under subdivisions (b) and (d) of Section 17041 and the reduction shall be made prior to proration of the tax.

(e) For purposes of this section, marital status shall be determined under Section 17021.5.

(f) For taxable years beginning on or after January 1, 1992, the threshold amounts specified in subdivision (b) shall be recomputed annually in the same manner as the recomputation of income tax brackets under subdivision (h) of Section 17041.

(g) This section shall apply to taxable years beginning on or after January 1, 1991.

SEC. 14. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the S corporation in the case of an S corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

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

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

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

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar

year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an S corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

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

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

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of an existing building is 130 percent of that amount pursuant to subparagraph (C) of paragraph (5) of subsection (d) of Section 42 of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

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

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

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings which are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

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

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building which is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings which are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing building means a building which satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization.

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the mortgage on the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Preservation Act of 1987 or under Section 502(c) of the Housing Act of 1949, anytime in the three calendar years after the year of application to the California Tax Credit Allocation Committee.

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

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

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note; or

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period; or

(B) The amount of the cash-flow from those units in the building that are not low-income units. For purposes of computing cash-flow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may be accumulated and distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an S corporation.

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

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

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

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

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

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

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

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

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

(2) Paragraphs (3), (4), (6), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) Notwithstanding subdivision (m), the aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section and Section 23610.5 shall be an amount equal to the sum of the following:

(1) Thirty-five million dollars ($35,000,000).

(2) The unused housing credit ceiling, if any, for the preceding calendar years; and

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit

Allocation Committee and the allocation recipient.

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

(2) If, after the first 18 years of the compliance period, a qualified low-income housing project is not economically feasible, the housing sponsor shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the housing sponsor designates the net available units as low-income units subject to the set-aside and rent requirements, up to the number of low-income units necessary to arrive at the original applicable fraction, while keeping the project economically feasible.

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

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

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, providing the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

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

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

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory

agreement in any state court.

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

(6) A requirement that the housing sponsor provide the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement with advance notice if the housing sponsor intends to reduce the number of low-income units to make a project economically feasible.

(7) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee and the local agency that can enforce the regulatory agreement if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

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

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

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of not less than three periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling which may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations or other similar events prevent the use of three allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in paragraph (1) of subsection (m) of Section 42 of Title 26 of the United States Code. In adopting this plan, the committee shall comply with the provisions of subparagraphs (B) and (C) of paragraph (1) of subsection (m) of Section 42 of Title 26 of the United States Code.

(3) Notwithstanding subsection (m) of Section 42 of the Internal

Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, for the low-income units, and a development fee that does not exceed a specified percentage of the qualified basis of the project prior to inclusion of the development fee in the qualified basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if:

(i) The project serves the lowest income tenants at rents affordable to those tenants; or

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which the greatest percentage of total square feet of all residential units is comprised of low-income units with three or more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(vi) Projects located within a "difficult to develop area" or a "qualified census tract" as defined in Section 42(d)(5)(C) of the Internal Revenue Code.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section and Section 23610.5 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

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

The term "secretary" shall be replaced by the term "California Tax Credit Allocation Committee."

(*l*) In the case where the credit allowed under this section exceeds the net tax, the excess credit may be carried over to reduce the net tax in the following year, and succeeding taxable years, if necessary, until the credit has been exhausted.

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

The aggregate amount of credit granted pursuant to this section and Section 23610.5 in 1989 may exceed thirty-five million dollars ($35,000,000) by an amount equal to the unallocated credit from 1987 and 1988.

(n) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an

allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(o) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(p) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(q) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(r) (1) This section shall remain in effect only until December 1, 1990, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(2) Notwithstanding paragraph (1), this section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code pertaining to low-income housing credits remains in effect.

SEC. 15. Section 17060 of the Revenue and Taxation Code is repealed.

SEC. 16. 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, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(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 the following 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:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, 7 percent.

(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.

(c) (1) 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.

(2) The provisions of Section 56(h) of the Internal Revenue Code, relating to adjustment based on energy preferences, shall not apply.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) The last sentence of Section 57(a)(6)(B) of the Internal Revenue Code, relating to tangible personal property, shall not apply.

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

SEC. 17. Section 17077 is added to the Revenue and Taxation Code, to read:

17077. The provisions of Section 68 of the Internal Revenue Code, relating to overall limitation on itemized deductions, shall apply with the following modifications:

(a) "Six percent" shall be substituted for "3 percent" in Section

68(a)(1) of the Internal Revenue Code.

(b) For purposes of this section, "applicable amount" means one hundred thousand dollars ($100,000) in the case of a single individual or a married individual making a separate return, one hundred fifty thousand dollars ($150,000) in the case of a head of household, and two hundred thousand dollars ($200,000) in the case of a surviving spouse or a husband and wife making a joint return.

(c) Subsection (f) of Section 68 of the Internal Revenue Code, relating to termination, shall not apply.

SEC. 18. Section 17088 of the Revenue and Taxation Code is amended to read:

17088. (a) The provisions of Section 852 of the Internal Revenue Code, relating to taxation of regulated investment companies and their shareholders shall apply, except as otherwise provided.

(b) Section 17145 (relating to exempt interest dividends) shall apply in lieu of Section 852(b)(5) of the Internal Revenue Code.

(c) Section 852(b)(3)(D) of the Internal Revenue Code, relating to treatment by shareholders of undistributed capital gains, shall not apply.

SEC. 19. Section 17137 of the Revenue and Taxation Code is amended to read:

17137. The exemption of earnings of ship contractors prescribed by Section 136(a)(4) of the Internal Revenue Code shall not apply.

SEC. 20. Section 17144 is added to the Revenue and Taxation Code, to read:

17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting "this part" in lieu of "Section 38 (relating to general business credit)."

(b) Section 108(b)(2)(E) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting "11.1 cents" in lieu of "33 ⅓ cents." In the case where more than one credit is allowable under this part, the credit shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting "($9)" in lieu of "($3)."

SEC. 21. 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(c)[e] 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. 22. Section 17252.5 of the Revenue and Taxation Code is amended to read:

17252.5. (a) A taxpayer may elect to treat the cost of any Section 17252.5 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which Section 17252.5 property is placed in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall—

(A) Specify the items of Section 17252.5 property to which the election applies and the portion of the cost of each of those items which is to be taken into account under subdivision (a), and

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17252.5 property" means any recovery property which is Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) and which is acquired by purchase for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying subsections (b) and (c) of Section 267 of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined—

(i) In whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) Under Section 1014 of the Internal Revenue Code, relating to basis of property acquired from a decedent.

(3) For purposes of this section, the cost of property does not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the dollar limitation contained in subdivision (f) shall apply with respect to the partnership and with respect to each partner.

(7) This section shall not apply to any property described in Section 168(f) of the Internal Revenue Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(e) For purposes of this section, "taxpayer" means a taxpayer who conducts a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(f) The deduction allowable under subdivision (a) for any taxable

year shall not exceed the following applicable amount for the taxable year of the designation of an enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$ 5,000
1st taxable year thereafter	5,000
2nd taxable year thereafter	7,500
3rd taxable year thereafter	7,500
Each taxable year thereafter	10,000

(g) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

(h) Any amounts deducted under subdivision (a) with respect to property which ceases to be used in the trade or business within an enterprise zone at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

SEC. 23. Section 17265 of the Revenue and Taxation Code is amended to read:

17265. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 17265 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the Section 17265 property is placed in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall—

(A) Specify the items of Section 17265 property to which the election applies and the percentage of the cost of each of those items which is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

This election shall be made in the time, form, and manner which the Franchise Tax Board may prescribe.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17265 property" means property acquired by the taxpayer which is used exclusively within a program area (as defined in Section 7082 of the Government Code) and consists of machinery and machinery parts used for

fabricating, processing, assembling, and manufacturing and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms.

"Section 17265 property" also means property used as an integral part of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the percentage limitation specified in subdivision (a) shall apply with respect to the partnership and with respect to each partner.

(e) For purposes of this section, "taxpayer" means a taxpayer who conducts a qualified business within a program area (as defined in Section 7082 of the Government Code).

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets, and shall reduce the basis of the property by the amount of the deduction claimed under this section. However, the taxpayer may claim depreciation by any method permitted by Section 17250, commencing with the taxable year following the taxable year in which the Section 17265 property is placed in service.

(g) The aggregate cost which may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of a program area and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(h) Any amounts deducted under subdivision (a) with respect to property which ceases to be qualified property at any time before the close of the second taxable year after the property is placed in service shall be included in income for that year.

SEC. 24. Section 17270 of the Revenue and Taxation Code is amended to read:

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

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

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

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

(c) The provisions of Section 280C(a) of the Internal Revenue Code (relating to rule for targeted jobs credit) shall not apply.

(d) Section 280C(c)(3)(B) of the Internal Revenue Code is modified to refer to Section 17041 in lieu of Section 11(b)(1) of the Internal Revenue Code.

SEC. 25. Section 17273 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1 and 17276.2, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1985, and beginning on or after January 1, 1997, shall not be allowed.

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

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

taxable year.

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

(d) Notwithstanding any provisions of this section, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1 and 17276.2.

SEC. 27. Section 17276.1 of the Revenue and Taxation Code is amended to read:

17276.1. (a) A qualified taxpayer, as defined in Section 17276.2, may elect to take the deduction provided by Section 172 of the Internal Revenue Code, relating to the net operating loss deduction, as modified by Section 17276, with the following exceptions:

(1) Subdivision (a) of Section 17276, relating to years in which allowable losses are sustained, shall not be applicable.

(2) Subdivision (b) of Section 17276, relating to the 50-percent reduction of losses, shall not be applicable.

(b) The election to compute the net operating loss under this section shall be made in a statement attached to the original return, timely filed for the year in which the net operating loss is incurred and shall be irrevocable. In addition to the exceptions specified in subdivision (a), the provisions of Section 17276.2 shall be applicable.

SEC. 28. Section 17276.3 is added to the Revenue and Taxation Code, to read:

17276.3. (a) Notwithstanding Sections 17276, 17276.1, and 17276.2, and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for all taxable years beginning in the 1991 and 1992 calendar years.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended by two years.

SEC. 29. Section 17514 of the Revenue and Taxation Code is repealed.

SEC. 30. 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 tax imposed by Section 17041 or 17048 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. 31. Section 17684 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 18006 of the Revenue and Taxation Code is amended to read:

18006. For purposes of determining a credit under Section 18001 (relating to residents) or Section 18002 (relating to nonresidents), both of the following apply:

(a) A member of a partnership shall be allowed to treat his, her, or its pro rata share of net income taxes paid to another state by the partnership as if those taxes had been paid directly by the partner.

(b) (1) A shareholder of a corporation electing to be treated as an S corporation under Chapter 4.5 (commencing with Section 23800) of Part 11 shall be allowed to treat his or her pro rata share of net income taxes paid to another state by the S corporation as if those taxes had been paid by the shareholder.

(2) This subdivision shall apply only if either of the following requirements is met:

(A) The state imposing the tax does not allow corporations to elect to be treated as an S corporation.

(B) The state imposes a tax on S corporations and the corporation referred to in paragraph (1) has elected to be treated as an S corporation in the other state.

SEC. 33. Section 18037 of the Revenue and Taxation Code is amended to read:

18037. The provisions of Section 1033(g)(3)(A) of the Internal Revenue Code, relating to the election to treat outdoor advertising displays as real property, shall not be denied because the taxpayer has, on his or her federal return, elected to expense the asset.

SEC. 34. Chapter 16 (commencing with Section 18351) of Part 10 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 18682 of the Revenue and Taxation Code is amended to read:

18682. (a) An amount shall be added to the tax imposed under Section 17041 or 17048 for any underpayment of estimated tax. The amount shall be determined in accordance with Section 6654 of the Internal Revenue Code, except as otherwise provided in this section.

(b) The applicable annual rate specified in Section 6654(a)(1) of the Internal Revenue Code shall be the rate determined under Section 19269.

(c) The annualized income installment, determined under Section 6654(d)(2) of the Internal Revenue Code, shall not include "alternative minimum taxable income" or "adjusted self-employment income."

(d) Section 6654(e) of the Internal Revenue Code is modified as follows:

(1) Paragraph (1) shall not be applicable.

(2) No addition to the tax shall be imposed under this section if any of the following apply:

(A) The tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by this part, or computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by this part, is less than one hundred dollars ($100), except in the case of a separate return filed by a married person the amount shall be less than fifty dollars ($50).

(B) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year, less any credits against the tax other than the credit allowed under Section 18551.1 for tax withheld on wages pursuant to Section 13020 of the Unemployment Insurance Code, was paid by withholding of tax on wages, as provided by Section 13020 of the Unemployment Insurance Code.

(C) Eighty percent or more of the estimated tax for the taxable year will be paid by withholding of tax on wagespursuant to Section 13020 of the Unemployment Insurance Code.

(D) Eighty percent or more of the adjusted gross income for the taxable year consists of wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code.

(3) Paragraph (2) shall not apply if the employee files a false or fraudulent withholding exemption certificate for the taxable year.

(e) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term "tax" means the tax imposed

year shall not exceed the following applicable amount for the taxable year of the designation of an enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$ 5,000
1st taxable year thereafter	5,000
2nd taxable year thereafter	7,500
3rd taxable year thereafter	7,500
Each taxable year thereafter	10,000

(g) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

(h) Any amounts deducted under subdivision (a) with respect to property which ceases to be used in the trade or business within an enterprise zone at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

SEC. 23. Section 17265 of the Revenue and Taxation Code is amended to read:

17265. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 17265 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the Section 17265 property is placed in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall—

(A) Specify the items of Section 17265 property to which the election applies and the percentage of the cost of each of those items which is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

This election shall be made in the time, form, and manner which the Franchise Tax Board may prescribe.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17265 property" means property acquired by the taxpayer which is used exclusively within a program area (as defined in Section 7082 of the Government Code) and consists of machinery and machinery parts used for

fabricating, processing, assembling, and manufacturing and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms.

"Section 17265 property" also means property used as an integral part of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any property for which the taxpayer may not make an election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(6) In the case of a partnership, the percentage limitation specified in subdivision (a) shall apply with respect to the partnership and with respect to each partner.

(e) For purposes of this section, "taxpayer" means a taxpayer who conducts a qualified business within a program area (as defined in Section 7082 of the Government Code).

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets, and shall reduce the basis of the property by the amount of the deduction claimed under this section. However, the taxpayer may claim depreciation by any method permitted by Section 17250, commencing with the taxable year following the taxable year in which the Section 17265 property is placed in service.

(g) The aggregate cost which may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of a program area and taxable years thereafter:

under Section 17041 or 17048, less any credits against the tax provided by this part, other than the credit provided by Section 18551.1 (relating to tax withheld on wages.

(f) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under Section 18551.1.

(g) This section shall apply to a nonresident individual.

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

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

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

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

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

SEC. 36. Section 18682.6 is added to the Revenue and Taxation Code, to read:

18682.6. (a) No addition to tax shall be made under Section 18682 for any underpayment prior to September 15, 1991, to the extent that underpayment was attributable to changes made by the act adding this section with respect to the deduction of net operating losses under this part.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed.

SEC. 37. Section 18682.7 is added to the Revenue and Taxation Code, to read:

18682.7. (a) No addition to tax shall be made under Section 18682 for any underpayment prior to September 15, 1991, to the extent that underpayment was attributable to changes made by the act adding this section with respect to the tax rates specified in Section 17041 or the alternative minimum tax rate specified in Section 17062.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed.

SEC. 38. Section 18802.7 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 18802.7 is added to the Revenue and Taxation Code, to read:

18802.7. Section 6039 of the Internal Revenue Code, relating to information required in connection with certain options, shall apply.

SEC. 40. Section 18806 of the Revenue and Taxation Code is

amended to read:

18806. (a) The Franchise Tax Board shall annually (or more often if necessary) prepare and make available to the Employment Development Department, wage withholding tables which shall be used by every employer making payment of any wages to a resident employee for services performed either within or without this state; or to a nonresident employee for services performed in this state, to deduct and withhold from those wages for each payroll period, a tax computed in such a manner as to produce, so far as practicable, with due regard to the credits for personal exemptions allowable under Section 17054, a sum which is substantially equivalent to the amount of tax reasonably estimated to be due under this part resulting from the inclusion in the gross income of the employee the wages which were subject to withholding.

(b) (1) For supplemental wages paid on or after January 1, 1992, the rate of withholding that may be applied to supplemental wages in lieu of the wage withholding tables specified in subdivision (a) shall be 6 percent.

(2) For purposes of this subdivision, "supplemental wages" includes, but is not limited to, bonus payments, overtime payments, commissions, sales awards, back pay including retroactive wage increases, and reimbursements for nondeductible moving expenses that are paid for the same or a different period, or without regard to a particular period.

SEC. 41. Section 18831 of the Revenue and Taxation Code is amended to read:

18831. (a) At any time within 10 years after the determination of liability for any tax, penalties, and interest, or within the period during which a lien is in force as the result of the recording of an abstract under Section 18863 or of the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the Franchise Tax Board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to recover the amount of any taxes, penalties, and interest due and unpaid under this part.

(b) The amendments made by the act adding this subdivision shall apply to any of the following:

(1) Taxes assessed after the date of enactment of that act.

(2) Taxes assessed on or before that date if the period specified in subdivision (a), determined without regard to the amendments, has not expired on that date.

SEC. 42. 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.

(c) Section 6621(c) of the Internal Revenue Code, relating to increase in underpayment rate for large corporate underpayments, shall be modified as follows:

(1) The applicable date shall be the 30th day after the earlier of either of the following:

(A) The date on which the proposed assessment is issued.

(B) The date on which the notice and demand is sent.

(2) This subdivision shall apply for purposes of determining interest for periods after December 31, 1991.

SEC. 43. Section 23049.1 is added to the Revenue and Taxation Code, to read:

23049.1. Section 64 of the Internal Revenue Code, relating to the definition of ordinary income, shall apply.

SEC. 44. Section 23049.2 is added to the Revenue and Taxation Code, to read:

23049.2. Section 65 of the Internal Revenue Code, relating to the definition of ordinary loss, shall apply.

SEC. 45. 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, as enacted 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.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision which refers 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. 46. Section 23053 of the Revenue and Taxation Code is amended to read:

23053. The repeal of any provision of the Bank and Corporation Tax Law shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal; but all rights and liabilities under such law shall continue, and may be enforced in the same manner, as if such repeal had not been made.

SEC. 47. Section 23455 of the Revenue and Taxation Code is amended to read:

23455. For purposes of this part, Section 55 of the Internal Revenue Code is modified as follows:

(a) Section 55(b)(1) of the Internal Revenue Code, relating to tentative minimum tax, is modified by requiring the tentative minimum tax for the taxable year to be imposed as follows:

(1) With respect to corporations subject to tax under Chapter 2 (commencing with Section 23101), other than financial corporations, according to or measured by net income, for the privilege of doing business within this state, at a rate of 7 percent upon the basis of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(2) With respect to corporations subject to tax under Chapter 3 (commencing with Section 23501), on net income from sources within this state, at a rate of 7 percent upon the basis of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

(3) With respect to corporations subject to tax under Article 2 of Chapter 4 (commencing with Section 23731), on the unrelated business income from sources within this state, at a rate of 7 percent upon the basis of so much of the alternative taxable income for the taxable year as exceeds the exemption amount.

(4) With respect to banks subject to tax under Section 23181, according to or measured by net income, for the privilege of doing business within this state, in an amount equal to the sum of the following:

(A) At a rate of 7 percent upon the basis of so much of the alternative minimum taxable income as exceeds the exemption amount, and

(B) At the rate determined under Section 23186, less the rate prescribed by Section 23151, upon the basis of net income for the taxable year.

(5) With respect to financial corporations subject to tax under Section 23183, according to or measured by net income, for the privilege of doing business within this state, in an amount equal to the sum of the following:

(A) At a rate of 7 percent upon the basis of so much of the alternative minimum taxable income as exceeds the exemption amount, and

(B) At the rate determined under Section 23186, less the rate prescribed by Section 23151, upon the basis of net income for the taxable year. The offset prescribed by Section 23184 shall be applied to the tentative minimum tax in the same manner and to the same extent as that offset is applied to the tax imposed under Chapter 2 (commencing with Section 23101).

(b) Section 55(b)(2) of the Internal Revenue Code, relating to the definition of alternative minimum taxable income, is modified as follows:

(1) For corporations whose net income is determined under Chapter 17 (commencing with Section 25101), alternative minimum taxable income shall be allocated and apportioned in the same manner as net income is allocated and apportioned for purposes of the regular tax.

(2) With respect to taxpayers subject to Article 4 (commencing with Section 23221) of Chapter 2, Articles 4 (commencing with Section 23221) to 9 (commencing with Section 23361), inclusive, shall apply to the tax imposed by this section except that Section 23221 shall not apply.

(3) For purposes of computing the alternative minimum tax for taxable years in which a taxpayer commenced doing business, dissolves, withdraws, or ceases doing business, Sections 23151, 23151.1, 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204, inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, 23504, and 25401 shall be applied with due regard for the rate and alternative minimum taxable income prescribed by this chapter.

(c) Section 55(c) of the Internal Revenue Code, relating to the definition of regular tax, is modified to read:

(1) For purposes of this chapter, the term "regular tax" means the amount of tax imposed under Chapter 2 (commencing with Section 23101) or Chapter 3 (commencing with Section 23501) or Article 2 (commencing with Section 23731) of Chapter 4, but does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(2) The tax specified in paragraph (1) shall be the amount determined prior to reduction by any credits against the tax.

SEC. 48. 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) Section 56(g)(4)(A) of the Internal Revenue Code is modified to provide the following:

(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 straightline 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 by each of the following:

(A) Taking into account the adjusted basis of that property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last income year beginning before January 1, 1990.

(B) Using the straightline method over the remainder of the recovery period applicable to that property under the alternative system of Section 168(g) of the Internal Revenue Code.

(3) The amendments made to paragraph (2) by the act adding this paragraph shall apply to income years beginning on or after January 1, 1990.

(e) (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.

(f) The provisions of Section 56(h) of the Internal Revenue Code, relating to adjustments based on energy preferences, shall not apply.

SEC. 49. Section 23457 of the Revenue and Taxation Code is amended to read:

23457. For purposes of this part, Section 57 of the Internal Revenue Code is modified as follows:

(a) Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall not be applicable.

(b) Section 57(a)(6)(A) of the Internal Revenue Code is modified to refer to amounts allowed as a deduction by Section 24357, rather than by Section 170 of the Internal Revenue Code.

(c) The last sentence of Section 57(a)(6)(B) of the Internal Revenue Code, relating to tangible personal property, shall not apply.

(d) Section 57(a)(7) of the Internal Revenue Code, relating to accelerated depreciation or amortization on certain property placed in service before January 1, 1987, is modified to read: With respect to each property as described in Section 1250(c) of the Internal Revenue Code as that provision read on April 1, 1970, the amount by which the deduction allowable for the income year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the income year, had the taxpayer depreciated the property under the straightline method for each income year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

SEC. 50. Section 23459 of the Revenue and Taxation Code is

amended to read:

23459. For purposes of this part, the provisions of Section 59 of the Internal Revenue Code are modified as follows:

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

(b) Section 59(b) of the Internal Revenue Code, relating to income eligible for the credit under Section 936 of the Internal Revenue Code, shall not be applicable.

(c) Subparagraphs (A), (B), and (C) of Section 59(e)(2) of the Internal Revenue Code, relating to qualified expenditures, are modified to refer to:

(1) Section 24364, in lieu of the deduction under Section 173 of the Internal Revenue Code.

(2) Section 24423, in lieu of the deduction under Section 263(c) of the Internal Revenue Code.

SEC. 51. 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, 1998, 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, 1998.

(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, 1987, bears to the total number of days in that income year.

(B) In the case of any income year which begins before January 1, 1998, and ends after December 31, 1997, 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, 1998, 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, 1998, and ends after December 31, 1997, 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, 1998, 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, 1998, 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. 52. Section 23610.5 of the Revenue and Taxation Code is

amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a C corporation, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a C corporation, the partnership in the case of a partnership, and the S corporation in the case of an S corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

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

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

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

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an S corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

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

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

(E) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(F) No credit shall be allocated under this section to buildings located in a difficult development area or a qualified census tract as defined in Section 42 of the Internal Revenue Code for which the eligible basis of a new building or the rehabilitation expenditure of

an existing building is 130 percent of that amount pursuant to subparagraph (C) of paragraph (5) of subsection (d) of Section 42 of the Internal Revenue Code, unless the committee reduces the amount of federal credit, with the approval of the applicant, so that the combined amount of federal and state credit shall not exceed the total credit allowable pursuant to this section and Section 42(b) of the Internal Revenue Code, computed without regard to Section 42(d)(5)(C) of the Internal Revenue Code.

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

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

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings which are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

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

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building which is federally subsidized or that is an existing building that is "at risk of conversion," the term "applicable percentage" means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings which are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term "at risk of conversion," with respect to an existing building means a building which satisfies all of the following criteria:

(A) The building is presently owned by a housing sponsor other than a qualified nonprofit organization.

(B) The building is a federally assisted building for which the low-income use restrictions will terminate or the mortgage on the building is eligible for prepayment under Subtitle 13 of the Emergency Low Income Housing Assistance Act of 1987 or under Section 502(c) of the Housing Act of 1949, anytime in the three calendar years after the year of application to the California Tax Credit Allocation Committee.

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater

of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

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

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note; or

(ii) Twenty percent of the adjusted basis of the building as of the close of the first income year of the credit period; or

(B) The amount of the cash-flow from those units in the building that are not low-income units. For purposes of computing cash-flow under this subparagraph, operating costs shall be allocated to the low-income units using the "floor space fraction," as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an S corporation.

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

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

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

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

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

If, as of the close of any income year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an

amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the income years in which the increase in qualified basis occurs.

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

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

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

(2) Paragraphs (3), (4), (6), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable.

(g) Notwithstanding subdivision (m), the aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section and Section 17058 shall be an amount equal to the sum of the following:

(1) Thirty-five million dollars ($35,000,000).

(2) The unused housing credit ceiling, if any, for the preceding calendar years; and

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

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

(2) If, after the first 18 years of the compliance period, a qualified low-income housing project is not economically feasible, the housing sponsor shall be entitled to remove one or more low-income units from the set-aside and rent requirements of Section 42(g) of the Internal Revenue Code as is necessary for the project to become economically feasible, provided that once a project is again economically feasible, the housing sponsor designates the next available units as low-income units subject to the set-aside and rent requirements, up to the number of low-income units necessary to arrive at the original applicable fraction, while keeping the project economically feasible.

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

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

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

(1) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code, shall apply, providing the agreement includes all of the following provisions:

(A) A term not less than the compliance period.

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

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

(D) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

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

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

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

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

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

(j) (1) The committee shall allocate the housing credit on a regular basis consisting of not less than three periods in each calendar year during which applications may be filed and considered. The committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling which may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of three allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and the allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in paragraph (1) of subsection (m) of Section 42 of Title 26 of the United States Code. In adopting this plan, the committee shall comply with the provisions of subparagraphs (B) and (C) of paragraph (1) of subsection (m) of Section 42 of Title 26 of the United States Code.

(3) Notwithstanding subsection (m) of Section 42 of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a) of Section 17058, shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project

complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, for the low-income units, and a development fee that does not exceed a specified percentage of the qualified basis of the project prior to inclusion of the development fee in the qualified basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if:

(i) The project serves the lowest income tenants at rents affordable to those tenants; or

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which the greatest percentage of total square feet of all residential units is comprised of low-income units with three or more bedrooms.

(ii) Projects providing single room occupancy units serving very low income tenants.

(iii) Existing projects that are "at risk of conversion," as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner's equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(vi) Projects located within a "difficult to develop area" or a "qualified census tract" as defined in Section 42(d)(5)(C) of the Internal Revenue Code.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section and Section 17058 shall be set aside for allocation to rural areas as defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit

set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

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

The term "secretary" shall be replaced by the term "California Tax Credit Allocation Committee."

(*l*) In the case where the state 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.

(m) The aggregate amount of tax credits granted pursuant to this section and Section 17058 shall not exceed thirty-five million dollars ($35,000,000) per year. The California Tax Credit Allocation Committee shall not authorize any credit if the total amount of credits authorized in any year under the Personal Income Tax Law and the Bank and Corporation Tax Law exceeds thirty-five million dollars ($35,000,000).

The aggregate amount of credit granted pursuant to this section and Section 17058 in 1989 may exceed thirty-five million dollars ($35,000,000) by an amount equal to the unallocated credit from 1987 and 1988.

(n) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(o) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(p) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(q) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(r) (1) This section shall remain in effect only until December 1, 1990, and as of that date is repealed. However, any unused credit may continue to be carried forward, as provided in subdivision (*l*), until the credit has been exhausted.

(2) Notwithstanding paragraph (1), this section shall remain in effect on or after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, pertaining to low-income housing credits,

remains in effect.

SEC. 53. Section 23701 of the Revenue and Taxation Code is amended to read:

23701. Organizations which are organized and operated for nonprofit purposes within the provisions of a specific section of this article, or are defined in Section 23701h (relating to certain title-holding companies) or Section 23701x (relating to certain title-holding companies), are exempt from taxes imposed under this part, except as provided in this article or in Article 2 (commencing with Section 23731) of this chapter, if:

(a) An application for exemption is submitted in the form prescribed by the Franchise Tax Board; and

(b) A filing fee of twenty-five dollars ($25) is paid with each application for exemption filed with the Franchise Tax Board after December 31, 1969; and

(c) The Franchise Tax Board issues a determination exempting the organization from tax.

This section shall not prevent a determination from having retroactive effect and does not prevent the issuance of a determination with respect to a domestic organization which was in existence prior to January 1, 1970, and exempt under prior law without the submission of a formal application or payment of a filing fee. For the purpose of this section, the term "domestic" means created or organized under the laws of this state.

The Franchise Tax Board may issue rulings and regulations as are necessary and reasonable to carry out the provisions of this article.

SEC. 54. Section 23801 of the Revenue and Taxation Code is amended to read:

23801. (a) (1) A corporation may not elect to be treated as an "S corporation" unless it has in effect for federal purposes a valid election under Section 1362(a) of the Internal Revenue Code for the same year.

(2) For income years beginning in 1987—

(A) A corporation which has in effect a valid federal election, for the income year beginning in 1987, shall be deemed to have elected to be treated as an "S corporation" for purposes of this part, unless that corporation elects on its return to continue to be treated as a "C corporation" for purposes of this part.

(B) A corporation to which subparagraph (A) applies, but which is not required to file a return under this part, may elect to be treated as a "C corporation" for purposes of this part in such form and in such manner as the Franchise Tax Board may prescribe.

(C) A corporation which is deemed to have elected to be treated as an "S corporation" under subparagraph (A) shall, for purposes of applying the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, and Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income, be deemed to have made the election to be treated as an "S corporation" on the same date as the date of its

federal election under Section 1362(a) of the Internal Revenue Code.

(3) For income years beginning in 1988 or 1989—

(A) A corporation which had in effect a valid federal election for the preceding year, but was a "C corporation" for purposes of this part for that preceding year, may elect to be treated as an "S corporation" for purposes of this part by making an election in accordance with the provisions of Section 1362 of the Internal Revenue Code in such form and in such manner as the Franchise Tax Board may prescribe.

(B) A corporation which did not have in effect a valid federal election for the preceding year and which makes a federal election for the income year under Section 1362(a) of the Internal Revenue Code shall be deemed to have made an election to be treated as an "S corporation" for purposes of this part on the same date as the date of its federal election, unless that corporation elects on its return to continue to be treated as a "C corporation" for purposes of this part.

(C) A corporation to which subparagraph (B) applies, but which is not required to file a return under this part, may elect to be treated as a "C corporation" for purposes of this part in such form and in such manner as the Franchise Tax Board may prescribe.

(D) A corporation which elects to be treated as an "S corporation" under subparagraph A for an income year beginning in 1988 shall, for purposes of applying the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, and Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income, be deemed to have made the election to be treated as an "S corporation" on the same date as the date of its federal election under Section 1362(a) of the Internal Revenue Code.

(4) For income years beginning on or after January 1, 1990—

(A) An election under Section 1362(a) of the Internal Revenue Code, which is first effective for an income year beginning on or after January 1, 1990, shall be an election to which subdivision (g) of Section 23051.5 applies and shall be deemed to have been made for purposes of this part on the same date as the date of the federal election, unless the corporation files a California election under clause (ii) to be treated as a "C corporation" for purposes of this part.

(i) The federal "S" election shall be reported for purposes of this part in the form and manner as prescribed by the Franchise Tax Board no later than the last date allowed for filing the federal election under Section 1362(a) of the Internal Revenue Code for that income year.

(ii) The California election to be a "C corporation" may only be made by a corporation incorporated in California or qualified to do business in California and shall be made in the form and manner prescribed by the Franchise Tax Board no later than the last date allowed for filing the federal "S" election under Section 1362(a) of the Internal Revenue Code for that income year.

(B) A corporation, which has in effect a valid election under Section 1362(a) of the Internal Revenue Code, but which is a "C corporation" for purposes of this part may elect to be treated as an "S corporation" by making an election in the form and manner as prescribed by the Franchise Tax Board at the time required for making an "S" election under Section 1362(a) of the Internal Revenue Code for that income year, unless prohibited from doing so by Section 1362(g) of the Internal Revenue Code, relating to election after termination.

(C) In the event a corporation which has in effect a valid election under Section 1362(a) of the Internal Revenue Code and is not doing business in California becomes subject to this part by qualifying to do business in California, the corporation is deemed to have made an election to be treated as an "S corporation" for the income year during which the corporation qualifies to do business in California, unless the corporation files a California election in accordance with clause (ii) to be treated as a "C corporation" for that income year.

(i) The federal "S" election shall be reported for purposes of this part within two and one-half months after qualifying to do business in California in the form and manner as prescribed by the Franchise Tax Board.

(ii) The California election to be a "C corporation" shall be made in the form and manner as prescribed by the Franchise Tax Board no later than the following:

(I) For an income year beginning in 1990, two and one-half months after qualifying to do business in California.

(II) For an income year beginning on or after January 1, 1991, the last date allowed for filing a federal "S" election under Section 1362(a) of the Internal Revenue Code for that income year.

(D) (i) A corporation that is not qualified to do business in California, but which is treated as an "S corporation" for federal purposes, shall be treated as an "S corporation" for purposes of this part, and its shareholders shall be treated as shareholders of an "S corporation."

(ii) If a corporation described in clause (i) elected to be treated as a "C corporation" under this section prior to its amendment by the act adding this paragraph during the 1989–90 Regular Session, that election shall be revoked for income years beginning on or after January 1, 1990. The corporation shall be treated as an "S corporation" for purposes of this part, and its shareholders shall be treated as shareholders of an "S corporation."

(E) For purposes of this section, "qualified to do business in California" or "qualifying to do business in California" means incorporating or obtaining a certificate of qualification pursuant to the Corporations Code.

(F) For purposes of this section:

(i) A timely election to be treated as a "C corporation" shall be treated as a revocation and Section 1362(g), relating to election after termination, shall apply.

(ii) An untimely election to be treated as a "C corporation" shall be null and void and shall not be applied to either the current or any subsequent income year.

(b) If a corporation subject to tax under this part elects to be treated as an "S corporation" and has one or more shareholders who are nonresidents of this state or is a trust with a nonresident fiduciary, each of the following shall be required:

(1) Each nonresident shareholder or fiduciary shall file with the return a statement of consent by that shareholder or fiduciary to be subject to the jurisdiction of the State of California to tax the shareholder's pro rata share of the income attributable to California sources.

(2) An "S corporation" shall include in its return for each income year a list of shareholders in the form and in the manner prescribed by the Franchise Tax Board.

(3) Failure to meet the requirements of this subdivision shall be grounds for retroactive revocation of the election pursuant to this chapter.

(c) Except as provided in subdivision (d), a corporation which makes a valid election to be treated as an "S corporation" for purposes of this part shall not be included in a combined report pursuant to Article 1 (commencing with Section 25101) of Chapter 17.

(d) (1) In cases where the Franchise Tax Board determines that the reported income or loss of a group of commonly owned or controlled corporations (within the meaning of Section 25105), which includes one or more corporations electing to be treated as an "S corporation" under Chapter 4.5 (commencing with Section 23800), does not clearly reflect income (or loss) of a member of such group or represents an evasion of tax by one or more members of such group, and the Franchise Tax Board determines that the comparable uncontrolled price method prescribed by regulations pursuant to Section 482 of the Internal Revenue Code cannot practically be applied, the Franchise Tax Board may, in lieu of other methods prescribed by regulations pursuant to Section 482 of the Internal Revenue Code, apply methods of unitary combination, pursuant to Article 1 (commencing with Section 25101) of Chapter 17, to properly reflect the income or loss of the members of the group.

(2) The application of the provisions of this subdivision shall not affect the election of any corporation to be treated as an "S corporation."

(e) The tax for a "C corporation" for a short year shall be determined in accordance with Chapter 13 (commencing with Section 24631), in lieu of Section 1362(e) (5) of the Internal Revenue Code.

(f) (1) A termination of a federal election pursuant to Section 1362(d) of the Internal Revenue Code, that is not an inadvertent termination pursuant to Section 1362(f) of the Internal Revenue

Code, shall simultaneously terminate the "S corporation" election for purposes of Part 10 (commencing with Section 17001) and this part.

(2) A federal termination by revocation shall be effective for purposes of this part and shall be reported to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board no later than the last date allowed for filing federal termination for that year under Section 1362(d) of the Internal Revenue Code.

(3) A corporation which is qualified to do business in California and has in effect a valid "S" election under Section 1362(a) of the Internal Revenue Code, may revoke its "S" election for purposes of this part without revoking its federal election. The revocation for purposes of this part shall be made by providing a written notification to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board which includes the California corporation number and meets the requirements of Section 1362(d)(1) of the Internal Revenue Code.

(g) For income years beginning on or after January 1, 1990, if a corporation, which has in effect a valid "S" election under Section 1362(a) of the Internal Revenue Code, fails to make a "C corporation" election under clause (ii) of subparagraphs (A) and (C) of paragraph (4) of subdivision (a) or to terminate by revocation under paragraph (3) of subdivision (f), the corporation shall be treated as an "S corporation" pursuant to subparagraph (A) of paragraph (4) of subdivision (a).

SEC. 55. 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. For purposes of the tax imposed under Section 23151 or 23501, as modified by this section, material participation shall be determined in accordance with Section 469(h) of the Internal Revenue Code, relating to certain closely held "C corporations" and personal service corporations.

(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, except that no deduction shall be allowed for contributions allowed by Section 24357.

(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. 56. Section 24271 of the Revenue and Taxation Code is amended to read:

24271. (a) Gross income shall be determined in accordance with Section 61 of the Internal Revenue Code, except as otherwise provided.

(b) A distributive share of partnership gross income shall be determined in accordance with Part 10 (commencing with Section 17001).

(c) Income from an interest in an estate or trust shall be determined in accordance with Part 10 (commencing with Section 17001).

SEC. 57. Section 24307 of the Revenue and Taxation Code is amended to read:

24307. (a) The provisions of Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, shall be applicable except as otherwise provided.

(b) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit , is modified by substituting "this part" in lieu of "Section 38 (relating to general business credit)."

(c) Section 108(b)(2)(E) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply. In the case where more than one credit is allowable under this part, the credit shall be reduced on a pro rata basis.

(d) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting "11.1 cents" in lieu of "33⅓ cents."

(e) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting "$9" in lieu of "$3."

SEC. 58. Section 24310 of the Revenue and Taxation Code is amended to read:

24310. (a) Section 111 of the Internal Revenue Code, relating to recovery of tax benefit items, shall apply, except as otherwise provided.

(b) Sections 111(b) and 111(c) of the Internal Revenue Code, relating to credits and treatment of credit carryovers, shall be applicable with respect to credits allowable under this part.

SEC. 59. Section 24347 of the Revenue and Taxation Code is repealed.

SEC. 60. Section 24347 is added to the Revenue and Taxation Code, to read:

24347. For income years beginning on or after January 1, 1990, all of the following shall apply:

(a) Section 165 of the Internal Revenue Code, relating to losses.

(b) Section 166 of the Internal Revenue Code, relating to bad debts, except that the deduction of a savings and loan association, bank or financial corporation shall be determined under Section 24348.

(c) (1) Section 582 of the Internal Revenue Code, relating to bad debts, losses, and gains with respect to securities held by financial institutions.

(2) Section 582(c)(2)(C) of the Internal Revenue Code, relating to limitations on foreign banks, but only to foreign corporations that have in effect for the income year a water's edge election under Section 25110.

SEC. 61. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For income years ending after December 31, 1958, the term "reasonable allowance" as used in subdivision (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method.

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) For purposes of this part, the deduction for property leased to governments and other tax-exempt entities, as defined in Section 168(h) of the Internal Revenue Code, shall be limited to the amount determined under Section 168(g) of the Internal Revenue Code, relating to alternative depreciation system for certain property.

SEC. 62. Section 24349.5 of the Revenue and Taxation Code is repealed.

SEC. 63. Section 24352.1 of the Revenue and Taxation Code is repealed.

SEC. 64. Section 24354.2 of the Revenue and Taxation Code is repealed.

SEC. 65. Section 24354.3 of the Revenue and Taxation Code is repealed.

SEC. 66. Section 24354.4 of the Revenue and Taxation Code is repealed.

SEC. 67. Section 24356.2 of the Revenue and Taxation Code is amended to read:

24356.2. (a) A taxpayer may elect to treat the cost of any Section 24356.2 property as an expense which is not chargeable to capital

account. Any cost so treated shall be allowed as a deduction for the income year in which the Section 24356.2 property is placed in service.

(b) (1) An election under this section for any income year shall—

(A) Specify the items of Section 24356.2 property to which the election applies and the portion of the cost of each of those items which is to be taken into account under subdivision (a), and

(B) Be made on the taxpayer's return of the tax imposed by this part for the income year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.2 property" means any recovery property which is Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) and which is acquired by purchase for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants),

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the taxpayer may not make a federal election for the taxable year under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b)—

(A) All component members of an affiliated group shall be treated as one taxpayer, and

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the component members of the affiliated group in whatever manner the board shall by regulations prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(7) This section shall not apply to any property described in Section 168(f) of the Internal Revenue Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(d) For purposes of this section, "taxpayer" means a taxpayer who conducts a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property which constitutes Section 24356.2 property.

(f) The deduction allowable under subdivision (a) for any income year shall not exceed the following applicable amount for the income year of the designation of an enterprise zone and income years thereafter:

	The applicable amount is:
Income year of designation	$ 5,000
1st income year thereafter	5,000
2nd income year thereafter	7,500
3rd income year thereafter	7,500
Each income year thereafter	10,000

(g) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

(h) Any amounts deducted under subdivision (a) with respect to property which ceases to be used in the trade or business within an enterprise zone at any time before the close of the second income year after the property is placed in service shall be included in income for that year.

SEC. 68. Section 24356.3 of the Revenue and Taxation Code is amended to read:

24356.3. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 24356.3 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the income year in which the Section 24356.3 property is placed in service.

(b) (1) An election under this section for any income year shall—

(A) Specify the items of Section 24356.3 property to which the election applies and the percentage of the cost of each of those items which is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the income year.

This election shall be made in the manner which the Franchise Tax Board may by regulations prescribe.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.3 property" means property acquired by the taxpayer which is used exclusively in a program area (as defined in Section 7082 of the Government Code) and consists of machinery and machinery parts used for fabricating, processing, assembling, and manufacturing and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms.

"Section 24356.3 property" also means property used as an integral part of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 24427 through 24429 (but, in applying Sections 24428 and 24429 for purposes of this section, subdivision (d) of Section 24429 shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any property for which the taxpayer could not make a federal election under Section 179 of the Internal Revenue Code because of the application of the provisions of Section 179(d) of the Internal Revenue Code.

(5) For purposes of subdivision (b) of this section—

(A) All component members of an affiliated group shall be treated as one taxpayer.

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the component members of the affiliated group in whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50

percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, "taxpayer" means a taxpayer who conducts a qualified business within a program area (as defined in Section 7082 of the Government Code).

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property which constitutes Section 24356.3 property; however, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the income year following the income year in which Section 24356.3 property is placed in service.

(f) The aggregate cost which may be taken into account under subdivision (a) for any income year shall not exceed the following applicable amount for the income year of the designation of a program area and income years thereafter:

	The applicable amount is:
Income year of designation	$100,000
1st income year thereafter	100,000
2nd income year thereafter	75,000
3rd income year thereafter	75,000
Each income year thereafter	50,000

(g) Any amounts deducted under subdivision (a) with respect to property which ceases to be qualified property at any time before the close of the second income year after the property is placed in service shall be included in income for that second year.

SEC. 69. Section 24357.7 of the Revenue and Taxation Code is amended to read:

24357.7. (a) For purposes of paragraph (3) of subdivision (b) of Section 24357.2, the term "qualified conservation contribution" means a contribution—

(1) Of a qualified real property interest,

(2) To a qualified organization,

(3) Exclusively for conservation purposes.

(A) For purposes of this subdivision, the term "qualified real property interest" means any of the following interests in real property:

(i) The entire interest of the donor other than a qualified mineral interest.

(ii) A remainder interest.

(iii) A restriction (granted in perpetuity) on the use which may be made of the real property.

(b) For purposes of subdivision (a), the term "qualified organization" means an organization which:

(1) Is described in subdivision (a) or (b) of Section 24359, or

(2) Is described in Section 23701(d), and—

(A) Meets the requirements of Section 509(a)(2) of the Internal Revenue Code, or

(B) Meets the requirements of Section 509(a)(3) of the Internal Revenue Code and is controlled by an organization described in paragraph (1) or in subparagraph (A).

(c) For purposes of this section, the term "conservation purpose" means any of the following:

(1) The preservation of land areas for outdoor recreation by, or the education of, the general public.

(2) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem.

(3) The preservation of open space (including farm land and forest land) where such preservation is for any of the following:

(A) For the scenic enjoyment of the general public.

(B) Pursuant to a clearly delineated federal, state, or local governmental conservation policy, and will yield a significant public benefit.

(C) The preservation of an historically important land area or a certified historic structure.

(d) The term "certified historic structure" means any building, structure, or land area which:

(1) Is listed in the National Register, or

(2) Is located in a registered historic district (as defined in Section 47(c)(3)(B)) of the Internal Revenue Code and is certified by the Secretary of the Interior to the secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this part for the income year in which the transfer is made.

(e) For purposes of this section:

(1) A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

(2) (A) Except as provided in subparagraph (B), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, this subdivision shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(B) With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, paragraph (1) shall be treated as met if the probability of surface mining occurring on that property is so remote as to be negligible.

(f) For purposes of this section, the term "qualified mineral interest" means—

(1) Subsurface oil, gas, or other minerals; and

(2) The right to access to those minerals.

SEC. 70. Section 24357.8 of the Revenue and Taxation Code is

amended to read:

24357.8. (a) In the case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357, shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified research contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is an institution of higher education (as defined in Section 3304 (f) of the Internal Revenue Code of 1954) in California.

(2) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of Section 24365), or for research training, in physical, applied, or biological sciences, or for instructional purposes.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with this section, and with respect to property substantially all of the use of which is for instructional purposes, the taxpayer receives from the donee a written statement representing that the property will be used as an integral part of the instructional program. In the case of a computer, the statement shall also represent that the donee has acquired or will acquire, necessary basic operational software and the means to provide trained staff to utilize the property.

(7) The contribution is made on or after July 1, 1983, and on or before December 31, 1993.

(8) The taxpayer shall report to the Franchise Tax Board, on forms prescribed by the board, the name and address of the recipient educational organization, a description of the qualified charitable contribution, the fair market value of the contribution, and the date the contribution was made. The taxpayer shall forward a copy of the

forms, along with the written statements prescribed in paragraph (6), to the following:

(A) The President of the University of California, in the case of contributions to institutions within the University of California system.

(B) California Postsecondary Education Commission, in the case of contributions to private institutions.

(C) The Chancellor of the California State University, in the case of contributions to institutions within the California State University system.

(D) The Chancellor of the California Community Colleges, in the case of contributions to institutions within the California Community College system.

(c) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code of 1954).

SEC. 71. Section 24368.1 of the Revenue and Taxation Code is amended to read:

24368.1. (a) Section 167(e) 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. 72. Section 24383 of the Revenue and Taxation Code is amended to read:

24383. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of the building, facility or transportation vehicle, provided that the repair or remodeling meets one or more standards established pursuant to Section 4450 or 4451 of the Government Code. In the absence of such state standards, those standards established by the Secretary of the Treasury of the United States with the concurrence of the Architectural and Transportation Barriers Compliance Board shall be used. The installation of emergency egress/safe area refuge systems shall be eligible for such deductions.

(b) The deduction authorized by this section shall be taken with respect to the income year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any

income year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence. If, however, the costs of that repair or remodeling exceed the limit set forth in subdivision (g), the remaining balance may be charged to capital account.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer or the general public, in the taxpayer's business or trade.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed fifteen thousand dollars ($15,000) with respect to any taxpayer for any income year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(i) This section shall apply to income years beginning after December 31, 1976.

(j) (1) The State Fire Marshal in cooperation with the Department of Rehabilitation and the Department of Aging shall adopt building standards and regulations for emergency egress/safe area refuge systems. The building standards and regulations shall include, but not be limited to, minimum requirements for safety, reliability, durability and usability. Emergency egress/safe area refuge systems that comply with the building standards and regulations adopted pursuant to this section shall be eligible for the deduction provided by this section.

(2) It is the intent of the Legislature that this section and the building standards adopted pursuant to this section do not supersede more restrictive building standards and regulations adopted by the state and local governments.

(k) "Emergency egress/safe area refuge system" shall include, but not be limited to, all of the following:

(1) A building floor divided into not less than two compartments by not less than one-hour fire-resistive construction. Each door opening in the construction shall be protected by a twenty minute fire-resistive assembly as defined in regulations of the State Fire

Marshal. Duct openings shall be protected by single-blade or curtain-type fire dampers to restrict the passage of smoke or flame. The smaller of the compartmental areas shall be not less than one-fourth the floor area of the story. Each such compartment shall contain a stairway or elevator or other means of ready egress from the building.

(2) A fire alarm system defined in regulations by the State Fire Marshal.

(3) Use of existing exiting systems and warning devices when practical, including, but not limited to, stairways, elevators, and fire alarms.

(4) Accommodations for wheelchairs and all attached wheelchair equipment, as well as wheelchair occupants.

(5) Its own power source.

SEC. 73. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Sections 24416.1 and 24416.2, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Except as provided in subdivision (e), net operating losses attributable to income years beginning before January 1, 1985, and beginning on or after January 1, 1997, shall not be allowed, except for losses allowed by this section (as amended by Chapter 159 of the Statutes of 1985) and former Section 24417 (as amended by Chapter 158 of the Statutes of 1986).

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

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

(c) For any income year in which the taxpayer has in effect a water's edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that such net operating loss carryover was determined by taking into account the income and factors of an affiliated bank or corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

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

(e) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), both of the following shall apply:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carryforward which may be deducted in any income year, shall be determined in accordance with the provisions of Section 25108.

(f) The provisions of Section 172(b)(1)(K) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

SEC. 74. Section 24416.1 of the Revenue and Taxation Code is amended to read:

24416.1. (a) A qualified taxpayer, as defined in Section 24416.2, may elect to take the deduction provided by Section 172 of the Internal Revenue Code, relating to the net operating loss deduction, as modified by Section 24416, in computing net income under Section 24341, with the following exceptions to Section 24416:

(1) Subdivision (a) of Section 24416, relating to years in which allowable losses are sustained, shall not be applicable.

(2) Subdivision (b) of Section 24416, relating to the 50-percent reduction of losses, shall not be applicable.

(3) The provisions of subparagraphs (B) and (C) of Section 172 (b) (1) of the Internal Revenue Code shall not apply. To the extent applicable to California law, net operating losses attributable to entities with losses described by Section 172(b)(1)(J) shall be applied in accordance with Section 172(b)(1)(A) and (B) of the Internal Revenue Code.

(b) Corporations whose income is subject to the provisions of Section 25101 or 25101.15 shall make the computations required by Section 25108.

(c) The election to compute the net operating loss under this section shall be made in a statement attached to the original return, timely filed for the year in which the net operating loss is incurred and shall be irrevocable. In addition to the exceptions specified in subdivision (a), Section 24416.2 shall be applicable.

SEC. 75. Section 24416.3 is added to the Revenue and Taxation Code, to read:

24416.3. (a) Notwithstanding Sections 24416, 24416.1, and 24416.2, and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for all income years beginning in the 1991 and 1992 calendar years.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended by two years.

SEC. 76. Section 24422 of the Revenue and Taxation Code is amended to read:

24422. No deduction shall be allowed for both of the following:

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This subdivision shall not apply to:

(1) Expenditures for the development of mines or deposits deductible under Section 616 of the Internal Revenue Code.

(2) Soil and water conservation expenditures deductible under Section 24369.

(3) Expenditures for farmers for fertilizer, etc., deductible under Section 24377.

(4) Research and experimental expenditures deductible under Section 24365.

(5) Expenditures for which a deduction is allowed under Section 24356.2.

(6) Expenditures for which a deduction is allowed under Section 24356.3.

(7) Expenditures for removal of architectural and transportation barriers to the handicapped and elderly that the taxpayer elects to deduct under Section 24383.

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

SEC. 77. Section 24434 of the Revenue and Taxation Code is amended to read:

24434. (a) In the case of a taxpayer (other than a bank as defined in Section 23039) no deduction shall be allowed under Section 24347 or 24348 by reason of the worthlessness of any debt owed by a political party.

(b) (1) For purposes of subdivision (a), the term "political party" means any of the following:

(A) A political party.

(B) A national, state, or local committee of a political party.

(C) A committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice presidential electors or of any individual whose name is presented for election to any federal, state, or local elective public office, whether or not such individual is elected.

(2) For purposes of paragraph (1) (C), the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

(3) For purposes of paragraph (1) (C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

(c) In the case of a taxpayer who uses an accrual method of accounting, subdivision (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of a taxpayer's trade or business if both of the following apply:

(1) For the taxable year in which the receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades or businesses of the taxpayer were due from political parties.

(2) The taxpayer made substantial continuing efforts to collect on the debt.

SEC. 78. Section 24435 of the Revenue and Taxation Code is repealed.

SEC. 79. Section 24438 of the Revenue and Taxation Code is amended to read:

24438. (a) No deduction shall be allowed for any interest paid or incurred by a taxpayer during the income year with respect to its corporate acquisition indebtedness to the extent that such interest exceeds—

(1) Five million dollars ($5,000,000), reduced by

(2) The amount of interest paid or incurred by such corporation during such year on obligations (A) issued after December 31, 1967, to provide consideration for an acquisition described in paragraph (1) of subdivision (b), but (B) which are not corporate acquisition indebtedness.

(b) For purposes of this section, the term "corporate acquisition indebtedness" means any obligation evidenced by a bond, debenture, note, or certificate or other evidence of indebtedness issued after October 9, 1969, by a corporation (hereinafter in this section referred to as "issuing corporation") if—

(1) Such obligation is issued to provide consideration for the acquisition of—

(A) Stock in another corporation (hereinafter in this section referred to as "acquired corporation"), or

(B) Assets of another corporation (hereinafter in this section referred to as "acquired corporation") pursuant to a plan under which at least two-thirds (in value) of all the assets (excluding money) used in trades and businesses carried on by such corporation are acquired,

(2) Such obligation is either—

(A) Subordinated to the claims of trade creditors of the issuing corporation generally, or

(B) Expressly subordinated in right of payment to the payment of any substantial amount of unsecured indebtedness, whether outstanding or subsequently issued, of the issuing corporation,

(3) The bond or other evidence of indebtedness is either—

(A) Convertible directly or indirectly into stock of the issuing corporation, or

(B) Part of an investment unit or other arrangement which includes, in addition to such bond or other evidence of indebtedness, an option to acquire, directly or indirectly, stock in the issuing corporation, and

(4) As of a day determined under paragraph (1) of subdivision (c) either—

(A) The ratio of debt to equity (as defined in paragraph (2) of subdivision (c)) of the issuing corporation exceeds 2 to 1, or

(B) The projected earnings (as defined in paragraph (3) of subdivision (c)), do not exceed three times the annual interest to be

paid or incurred (determined under paragraph (4) of subdivision (c)).

(c) For purposes of paragraph (4) of subdivision (b)—

(1) Determinations are to be made as of the last day of any income year of the issuing corporation in which it issues any obligation to provide consideration for an acquisition described in paragraph (1) of subdivision (b) of stock in, or assets of, the acquired corporation.

(2) The term "ratio of debt to equity" means the ratio which the total indebtedness of the issuing corporation bears to the sum of its money and all its other assets (in an amount equal to their adjusted basis for determining gain) less such total indebtedness.

(3) (A) The term "projected earnings" means the "average annual earnings" (as defined in subparagraph (B)) of—

(i) The issuing corporation only, if cause (ii) does not apply, or

(ii) Both the issuing corporation and the acquired corporation, in any case where the issuing corporation has acquired control (as defined in Section 24564), or has acquired substantially all of the properties of the acquired corporation.

(B) The average annual earnings referred to in subparagraph (A) is, for any corporation, the amount of its earnings and profits for any three-year period ending with the last day of an income year of the issuing corporation described in paragraph (1), computed without reduction for—

(i) Interest paid or incurred,

(ii) Depreciation or amortization allowed under this part,

(iii) Liability for tax under this part, and

(iv) Distributions to which Section 301(c)(1) of the Internal Revenue Code, relating to property distributions, applies (other than such distributions from the acquired to the issuing corporation), and reduced to an annual average for such three-year period pursuant to regulations prescribed by the Franchise Tax Board. Such regulations shall include rules for cases where any corporation was not in existence for all of such three-year period or such period includes only a portion of an income year of any corporation.

(4) The term "annual interest to be paid or incurred" means—

(A) If subparagraph (B) does not apply, the annual interest to be paid or incurred by the issuing corporation only, determined by reference to its total indebtedness outstanding, or

(B) If projected earnings are determined under clause (ii) of subparagraph (A) of paragraph (3), the annual interest to be paid or incurred by both the issuing corporation and the acquired corporation, determined by reference to their combined total indebtedness outstanding.

(5) With respect to any corporation which is a bank or is primarily engaged in a lending or finance business—

(A) In determining under paragraph (2) the ratio of debt to equity of such corporation (or of the affiliated group of which such corporation is a member), the total indebtedness of such corporation (and the assets of such corporation) shall be reduced

by an amount equal to the total indebtedness owed to such corporation which arises out of the banking business of such corporation, or out of the lending or finance business of such corporation, as the case may be;

(B) In determining under paragraph (4) the annual interest to be paid or incurred by such corporation (or by the issuing and acquired corporations referred to in subparagraph (B) of paragraph (4) or by the affiliated group of which such corporation is a member) the amount of such interest (determined without regard to this paragraph) shall be reduced by an amount which bears the same ratio to the amount of such interest as the amount of the reduction for the income year under subparagraph (A) bears to the total indebtedness of such corporation; and

(C) In determining under subparagraph (B) of paragraph (3), the average annual earnings, the amount of the earnings and profits for the three-year period shall be reduced by the sum of the reductions under subparagraph (B) for such period.

For purposes of this paragraph, the term "lending or finance business" means a business of making loans or purchasing or discounting accounts receivable, notes, or installment obligations.

(d) In applying this section—

(1) The deduction of interest on any obligation shall not be disallowed under subdivision (a) before the first income year of the issuing corporation as of the last day of which the application of either subparagraph (A) or subparagraph (B) of paragraph (4) of subdivision (b) results in such obligation being corporate acquisition indebtedness.

(2) Except as provided in paragraphs (3), (4), and (5), if an obligation is determined to be corporate acquisition indebtedness as of the last day of any income year of the issuing corporation, it shall be corporate acquisition indebtedness for such income year and all subsequent income years.

(3) If an obligation is determined to be corporate acquisition indebtedness as of the close of an income year of the issuing corporation in which clause (i) of subparagraph (A) of paragraph (3) of subdivision (c) applied, but would not be corporate acquisition indebtedness if the determination were made as of the close of the first income year of such corporation thereafter in which clause (ii) of subparagraph (A) of paragraph (3) of subdivision (c) could apply, such obligation shall be considered not to be corporate acquisition indebtedness for such later income year and all income years thereafter.

(4) If an obligation which has been determined to be corporate acquisition indebtedness for any income year would not be such indebtedness for each of any three consecutive income years thereafter if paragraph (4) of subdivision (b) were applied as of the close of each of such three years, then such obligation shall not be corporate acquisition indebtedness for all income years after such three consecutive income years.

(5) In the case of obligations issued to provide consideration for the acquisition of stock in another corporation, such obligations shall be corporate acquisition indebtedness for an income year only if the issuing corporation owns 5 percent or more of the total combined voting power of all classes of stock entitled to vote of such other corporation.

(e) An acquisition of stock of a corporation of which the issuing corporation is in control (as defined in Section 24564) in a transaction in which gain or loss is not recognized shall be deemed an acquisition described in paragraph (1) of subdivision (b) only if immediately before such transaction (1) the acquired corporation was in existence, and (2) the issuing corporation was not in control (as defined in Section 24564) of such corporation.

(f) For purposes of this section, the term "corporate acquisition indebtedness" does not include any indebtedness issued to any person to provide consideration for the acquisition of stock in, or assets of, any foreign corporation substantially all of the income of which, for the three-year period ending with the date of such acquisition or for such part of such period as the foreign corporation was in existence, is from sources without the United States.

(g) In any case in which the issuing corporation is a member of an affiliated group, the application of this section shall be determined, pursuant to regulations prescribed by the Franchise Tax Board, by treating all of the members of the affiliated group in the aggregate as the issuing corporation, except that the ratio of debt to equity of, projected earnings of, and annual interest to be paid or incurred by any corporation (other than the issuing corporation determined without regard to this subdivision) shall be included in the determinations required under subparagraphs (A) and (B) of paragraph (4) of subdivision (b) as of any day only if such corporation is a member of the affiliated group on such day, and, in determining projected earnings of such corporation under paragraph (3) of subdivision (c), there shall be taken into account only the earnings and profits of such corporation for the period during which it was a member of the affiliated group. For purposes of this section, the term "affiliated group" has the meaning assigned to such term by Section 1504 of the Internal Revenue Code except that all corporations other than the acquired corporation shall be treated as includable corporations and the acquired corporation shall not be treated as an includable corporation.

(h) For purposes of this section—

(1) Any extension, renewal, or refinancing of an obligation evidencing a preexisting indebtedness shall not be deemed to be the issuance of a new obligation.

(2) Any obligation which is corporate acquisition indebtedness of the issuing corporation is also corporate acquisition indebtedness of any corporation which becomes liable for such obligation as guarantor, endorser, or indemnitor or which assumes liability for such obligation in any transaction.

(i) No inference shall be drawn from any provision in this section that any instrument designated as a bond, debenture, note, or certificate or other evidence of indebtedness by its issuer represents an obligation or indebtedness of such issuer in applying any other provision of this part.

(j) This section shall apply to the determination of the allowability of the deduction of interest paid or incurred with respect to indebtedness incurred after December 31, 1970.

SEC. 80. Section 24440 of the Revenue and Taxation Code is amended to read:

24440. (a) The provisions of Section 280C(b) of the Internal Revenue Code (relating to credit for qualified clinical testing expenses for certain drugs) shall be applicable.

(b) (1) The provisions of Section 280C(c) of the Internal Revenue Code , relating to credit for increasing research activities, shall apply.

(2) Section 280C(c)(3)(B) of the Internal Revenue Code is modified to refer to Section 23151, 23186, or 23802 in lieu of Section 11(b)(1) of the Internal Revenue Code.

SEC. 81. Chapter 8 (commencing with Section 24451) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 82. Chapter 8 (commencing with Section 24451) is added to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 8. CORPORATE DISTRIBUTIONS AND ADJUSTMENTS

24451. The provisions of Subchapter C of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to corporate distributions and adjustments, shall apply except as otherwise provided.

24452. Section 301(e)(2) of the Internal Revenue Code, relating to 20 percent corporate shareholders, is modified to refer to Section 24402 in lieu of Sections 243, 244, and 245 of the Internal Revenue Code.

24453. Section 302(c)(2) of the Internal Revenue Code, relating to determining termination of interest, is modified to refer to the periods of limitation provided in "Chapter 20 and Chapter 23," in lieu of "Sections 6501 and 6502" of the Internal Revenue Code and to refer to "taxes imposed under the Personal Income Tax Law" and the "Bank and Corporation Tax Law," in lieu of "Federal income tax."

24456. Section 306(f) of the Internal Revenue Code, relating to source of gain, shall not apply.

24461. (a) For purposes of this part, the provisions of Section 633 of Public Law 99-514, relating to effective dates for recognition of gain and loss on distributions of property in liquidation, shall apply except as otherwise provided.

(b) The provisions of Section 633(e) of Public Law 99-514, relating to other transition rules, shall not apply.

(c) The amendments to Section 633 of Public Law 99-514 made by

Section 1006(g)(1) to 1006(g)(8), inclusive, of Public Law 100-647, relating to effective dates for recognition of gain and loss on distributions of property in liquidation, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in Public Law 100-647.

24471. Section 381(c) of the Internal Revenue Code, relating to items of the distributor or transferor corporation, is modified to provide that, in lieu of paragraph (24), relating to credit under Section 38, and paragraph (25), relating to credit under Section 53, the acquiring corporation shall take into account (to the extent proper to carry out the purposes of Section 381 of the Internal Revenue Code) the items required to be taken into account for purposes of each credit allowable under this part with respect to the distributor or transferor corporation.

24481. Section 383 of the Internal Revenue Code, relating to special limitations on certain excess credits, etc., is modified to apply to credits allowable under Chapter 3.5 (commencing with Section 23601), and the minimum tax credit allowable under Section 23453.

SEC. 83. Chapter 9 (commencing with Section 24501) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 84. Chapter 10 (commencing with Section 24521) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 85. Chapter 11 (commencing with Section 24570) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 86. Chapter 11.5 (commencing with Section 24580) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 87. Chapter 11.8 (commencing with Section 24591) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 88. Section 24621 of the Revenue and Taxation Code is repealed.

SEC. 89. Section 24621 is added to the Revenue and Taxation Code, to read:

24621. Section 421 of the Internal Revenue Code, relating to general rules for certain stock options, shall apply.

SEC. 90. Section 24622 of the Revenue and Taxation Code is repealed.

SEC. 91. Section 24632 of the Revenue and Taxation Code is amended to read:

24632. (a) The income year of a taxpayer may not be different than the taxable year used for purposes of the Internal Revenue Code, unless initiated or approved by the Franchise Tax Board.

(b) (1) For purposes of this section, whenever a taxpayer is required to make a federal return for a period of less than 12 months, that period shall be deemed to be a taxable year and a return for the short period shall be required.

(2) Where a short period return is required by paragraph (1), the due date of that return shall be the same as the date that the short period return is required to be filed for federal purposes.

SEC. 92. 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 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. 93. Section 24685 of the Revenue and Taxation Code is amended to read:

24685. (a) In the case of any taxpayer who elected to have former Section 24685 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 former Section 24685 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. 94. Section 24834 of the Revenue and Taxation Code is repealed.

SEC. 95. Section 24953 of the Revenue and Taxation Code is repealed.

SEC. 96. Section 24953.5 of the Revenue and Taxation Code is repealed:

SEC. 97. Section 24990.7 of the Revenue and Taxation Code is amended to read:

24990.7. The provisions of Section 1248 of the Internal Revenue Code, relating to gain from certain sales or exchanges of stock in certain foreign corporations, shall not apply to transactions occurring

after August 20, 1990, in income years beginning on or after January 1, 1990.

SEC. 98. Article 6 (commencing with Section 24999) of Chapter 15 of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 99. Chapter 16 (commencing with Section 25001) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 100. 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, information filed with the Internal Revenue Service to comply with Sections 6038, 6038A, 6038B, 6038C, 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. 101. Chapter 18 (commencing with Section 25201) of Part 11 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 102. Section 25901b of the Revenue and Taxation Code is amended to read:

25901b. (a) Interest upon the amount determined as a deficiency shall be assessed, collected, and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax or, if the tax is paid in installments, from the date prescribed for the payment of the first installment, until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(b) If the Franchise Tax Board makes or allows a refund or credit that it determines to be erroneous, in whole or in part, the amount erroneously allowed or made may be assessed and collected after notice and demand pursuant to Section 25670 (pertaining to mathematical errors), except that the rights of protest and appeal shall apply with respect to amounts assessable as deficiencies without regard to the running of any period of limitations provided elsewhere in this article. Notice and demand for repayment shall be made within two years after the refund or credit was made or allowed, or during the period within which the Franchise Tax Board may mail a notice of proposed additional assessment, whichever period expires the later. Interest on amounts erroneously made or allowed shall not accrue until 30 days from the date the Franchise Tax Board mails notice and demand for repayment as provided by this subdivision.

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

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

(B) Any payment of any tax described in Section 25662 to the extent that any delay in that payment is attributable to that officer or employee being dilatory in performing a ministerial act.

For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of that error or delay can be attributed to the taxpayer involved, and after the Franchise Tax

Board has contacted the taxpayer in writing with respect to that deficiency or payment.

(2) The Franchise Tax Board shall abate the assessment of all interest on any erroneous refund for which an action for recovery is provided under Section 26281 until the date demand for repayment is made, unless either of the following has occurred:

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

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

SEC. 103. Section 25935 of the Revenue and Taxation Code is amended to read:

25935. (a) (1) 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.

(2) This subdivision shall apply to all of the following:

(A) All income years beginning on or after January 1, 1990.

(B) Any other income year for which an assessment is made after the date of enactment of the act adding this paragraph.

(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. 104. Section 25940 of the Revenue and Taxation Code is amended to read:

25940. (a) (1) The provisions of Section 6038A of the Internal Revenue Code, relating to information with respect to certain foreign-owned corporations, shall apply.

(2) 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 provisions of Section 6038A of the Internal Revenue Code.

(3) The provisions of Section 11314 of Public Law 101-508, relating to application of amendments made by Section 7403 of the Revenue Reconciliation Act of 1989 to taxable years beginning on or before July 10, 1989, shall apply.

(4) Section 6038A(e) of the Internal Revenue Code, relating to enforcement of requests for certain records, is modified as follows:

(A) Each reference to Section 7602, 7603, or 7604 of the Internal Revenue Code shall instead refer to Section 26423.

(B) Each reference to "summons" shall instead refer to "subpoena duces tecum."

(C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall refer to "superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and

County of San Francisco," instead of "United States district court for the district in which the person (to whom the summons is issued) resides or is found."

(b) (1) The provisions of Section 6038B of the Internal Revenue Code, relating to notice of certain transfers to foreign persons, shall apply.

(2) 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 provisions of Section 6038B of the Internal Revenue Code.

(c) (1) The provisions of Section 6038C of the Internal Revenue Code, relating to information with respect to foreign corporations engaged in United States business, shall apply.

(2) 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 provisions of Section 6038C of the Internal Revenue Code.

(3) Section 6038C(d) of the Internal Revenue Code, relating to enforcement of requests for certain records, is modified as follows:

(A) Each reference to Section 7602, 7603, or 7604 of the Internal Revenue Code shall instead refer to Section 26423.

(B) Each reference to "summons" shall instead refer to "subpoena duces tecum."

(d) For purposes of this part, the information required to be filed with the Franchise Tax Board under this section shall be a copy of the information filed with the Internal Revenue Service.

SEC. 105. Section 25951.6 is added to the Revenue and Taxation Code, to read:

25951.6. (a) No addition to tax shall be made under Section 25951 for may underpayment prior to September 15, 1991, to the extent that underpayment was attributable to changes made by the act adding this section with respect to the deduction of net operating losses under this part.

(b) This section shall remain in effect only until January 1, 1993, and as of that date is repealed.

SEC. 106. Section 25953 of the Revenue and Taxation Code is amended to read:

25953. The period of the underpayment shall run from the date the installment was required to be made to whichever of the following date is the earlier—

(a) The 15th day of the third month following the close of the income year, except in the case of a corporation that is subject to the tax imposed under Section 23731, in which case, "fifth" shall be substituted for "third."

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this subdivision, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under

subdivision (a) of Section 25952 for such installment date.

SEC. 107. Section 25954 of the Revenue and Taxation Code is amended to read:

25954. (a) Notwithstanding the provisions of the preceding sections of this article, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax paid on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser—

(1) (A) The tax shown on the return of the taxpayer for the preceding income year if a return showing a liability for tax was filed by the taxpayer for the preceding year and such preceding year was a year of 12 months. The tax shown on the return, in the case of the tax imposed by Article 3 (commencing with Section 23181) of Chapter 2, means the amount of tax shown on the return for the income year as prescribed in Section 25553.

(B) In the case of a large corporation, subparagraph (A) shall not apply, except as provided in clauses (i) and (ii).

(i) Subparagraph (A) shall apply for purposes of determining the amount of the first required installment for any income year.

(ii) Any reduction in the first required installment by reason of clause (i) shall be recaptured by increasing the amount of the next required installment by the amount of that reduction.

(C) In the case of a large worldwide corporation, each of the following shall apply:

(i) Subparagraph (A) shall apply, however, except as provided in clause (ii), the amount determined under subparagraph (A) shall not be less than 70 percent of the tax shown on the return for the current income year, or if no return was filed, 70 percent of the tax for that year.

(ii) With respect to the first required installment for any income year, subparagraph (A) shall apply without the limitation specified in clause (i). However, any reduction in the first required installment by reason of this clause shall be recaptured by increasing the amount of the next required installment by the amount of that reduction.

(2) (A) An amount equal to 90 percent of the tax for the income year computed by placing on an annualized basis the taxable income:

(i) For the first three months of the income year, in the case of the installment required to be paid in the fourth month,

(ii) For the first three months or for the first five months of the income year, in the case of the installment required to be paid in the sixth month,

(iii) For the first six months or for the first eight months of the income year in the case of the installment required to be paid in the ninth month, and

(iv) For the first nine months or for the first 11 months of the

income year, in the case of the installment required to be paid in the 12th month of the taxable year.

(B) For purposes of this paragraph, the taxable income shall be placed on an annualized basis by—

(i) Multiplying by 12 the taxable income referred to in subparagraph (A), and

(ii) Dividing the resulting amount by the number of months in the income year referred to in subparagraph (A).

"Taxable income" as used in this section means "net income" (as defined by Section 24341) or alternative minimum taxable income (as defined by Section 23455).

(C) In the case of any corporation which is subject to the tax imposed under Section 23731, each of the following shall apply:

(i) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income.

(ii) Clauses (i) and (ii) of subparagraph (A) shall be applied by substituting "two months" for "three months."

(iii) Clause (ii) of subparagraph (A) shall be applied by substituting "four months" for "five months."

(iv) Clause (iii) of subparagraph (A) shall be applied by substituting "seven months" for "eight months."

(v) Clause (iv) of subparagraph (A) shall be applied by substituting "ten months" for "eleven months."

(b) (1) For purposes of this section, the term "large corporation" means any corporation or bank if that corporation or bank (or any predecessor corporation or bank) had taxable income (computed without regard to the deductions allowed by Sections 24416 and 24416.1) of one million dollars ($1,000,000) or more for any income year during the testing period.

(2) For purposes of this subdivision, the term "testing period" means the three income years immediately preceding the income year involved.

(c) (1) For purposes of this section, the term "large worldwide corporation" means any corporation or bank if that corporation or bank (or any predecessor corporation or bank)—(A) had taxable income (computed without regard to the deductions allowed by Sections 24416 and 24416.1) of one million dollars ($1,000,000) or more for any income year during the testing period, and (B) included during the testing period, for purposes of the tax imposed by this part, income and apportionment factors of one or more banks or corporations which derive all of their income from sources outside the United States which are not subject to the income taxes imposed by Subtitle A of the United States Internal Revenue Code.

(2) For purposes of this subdivision, the term "testing period" means the three income years immediately preceding the income year involved.

SEC. 108. Section 26251 of the Revenue and Taxation Code is amended to read:

26251. (a) At any time within 10 years after the determination of

liability for any tax, penalties, and interest or within the period during which a lien is in force as the result of the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, Franchise Tax Board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount due, together with penalties, and interest. The Attorney General or counsel for the Franchise Tax Board shall prosecute the action. In such action a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure without the showing required by Section 485.010 of the Code of Civil Procedure.

(b) The amendments made by the act adding this subdivision shall apply to any of the following:

(1) Taxes assessed after the date of enactment of that act.

(2) Taxes assessed on or before that date if the period specified in subdivision (a), determined without regard to the amendments, has not expired on that date.

SEC. 109. Section 13043 of the Unemployment Insurance Code is amended to read:

13043. (a) The manner of withholding and the amount to be deducted and withheld under this division shall be prescribed pursuant to Section 18806 of the Revenue and Taxation Code when a payment of wages is made to an employee by an employer in any of the following cases:

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with respect to which wages are also paid to the employee by the employer.

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to the employee by the employer.

(3) With respect to a period beginning in one and ending in another calendar year.

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to the employee.

(b) For purposes of this section, an employee's remuneration may consist of wages paid for a payroll period and supplemental wages.

(1) Supplemental wages include, but are not limited to, bonus payments, overtime payments, commissions, sales awards, back pay including retroactive wage increases, and reimbursements for nondeductible moving expenses that are paid for the same or different period, or without regard to a particular period.

(2) Supplemental wages do not include payments to individuals who are not employees pursuant to Section 13004.1.

(c) When any supplemental wages are paid subsequent to the payment of regular wages, the employer may determine the personal income tax to be withheld from supplemental wages paid

by (1) using a flat percentage rate pursuant to subdivision (b) of Section 18806 of the Revenue and Taxation Code without allowance for exemptions and credits and without reference to any regular payment of wages, or (2) adding the supplemental wages to the regular wages paid the employee and computing the personal income tax to be withheld on the whole amount (the computed tax minus the tax withheld from the regular wages shall be withheld from the supplemental wages). Where supplemental wages are paid at the same time as regular wages, the personal income tax to be withheld shall be computed on the total of the supplemental and regular wages and shall be determined as if the total of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

SEC. 110. The Legislature finds and declares that the amendments to Section 24271 of the Revenue and Taxation Code by Section 56 of this act is declaratory of existing law.

SEC. 111. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 118

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 16, 1991, Filed with Secretary of State July 16, 1991]

I object to the following appropriations contained in Assembly Bill 222

Item 0550-001-751—For support, Youth and Adult Correctional Agency (Joint Committee on Prison Construction and Operation) I delete this item.

The recent court decision, which stays the implementation of Proposition 140, makes this transfer no longer necessary.

Item 0650-011-001—For support of Office of Planning and Research I delete this item and Provision 1.

This item provides $370,000 to support the Secretary for Child Development and Education in addition to $1,604,155 contained in Item 6110-107-001, for a total budget of $1,974,155 I am deleting this item because support for the Secretary is fully funded through Assembly Bill 1017 and this item would duplicate portions of that bill.

I am deleting Provision 1 to conform with this action.

Item 0860-001-001—For support of Board of Equalization. I am making technical adjustments to this item by reducing:

(a) 100000-Personal Services from $164,145,000 to $161,775,000, and

(b) 300000-Operating Expenses and Equipment from $46,150,000 to $45,998,000, and by deleting Provision 5.

By sustaining $284,000 of the augmentation in reimbursement authority, individual departments will be able to contract with the Board for expedited appeals processing or travel to outlying areas.

Item 1900-001-815—For support of Public Employees' Retirement System. I reduce this item from $289,000 to $282,000.

I am reducing this item to conform to the action I have taken in Item 1900-001-830

Item 1900-001-820—For support of Public Employees' Retirement System. I reduce this item from $184,000 to $177,000.

I am reducing this item to conform to the action I have taken in Item 1900-001-830.

Item 1900-001-830—For support of Board of Administration of the Public Employees' Retirement System I reduce this item from $48,648,000 to $46,579,000 by reducing:

(a) 10-Retirement from $42,696,000 to $41,314,000,

(c) 30-Health Benefits from $6,490,000 to $6,305,000,

(d) 40-Investment Operations from $6,833,000 to $6,574,000,

(e) 50.01-Administration from $23,943,000 to $23,027,000,

(f) 50.02-Distributed Administration from −$23,943,000 to −$23,027,000,

(i) Amount payable from the Judges' Retirement Fund (Item 1900-001-815) from −$289,000 to −$282,000,

(j) Amount payable from the Legislators' Retirement Fund (Item 1900-001-820) from −$184,000 to −$177,000,

(k) Amount payable from the Public Employees' Contingency Reserve Fund (Item 1900-001-950 from −$6,371,000 to −$6,216,000, and by increasing·

(g) Reimbursements from −$768,000 to −$1,180,000.

I am deleting the $1,887,000 legislative augmentation, payable from various items ($1,475,000) and Reimbursements ($412,000), and 10 personnel years because the augmentation is for requests that were reviewed and rejected by the Administration during the budget development process primarily due to insufficient workload justification.

I am deleting the $68,000 legislative augmentation and 0.9 personnel years because the additional information provided by an actuary position can be provided by reprioritizing workload within existing resources

I am reducing $114,000 from this item because Chapter 83, Statutes of 1991 (AB 702), removes the actuarial workload requirements from the Public Employees' Retirement System and places such authority with an independent actuary to be paid for by the system. Accordingly, $114,000 for external actuarial contract services are reduced from this item. This action leaves $200,000 for actuarial contract services that can be used for consulting services related to the transition to a new actuarial operation. The need for ongoing actuarial staff positions within the Public Employees' Retirement System will be evaluated during preparation of the 1992–93 Governor's Budget.

Item 1900-001-950—For support of Public Employees' Retirement System. I reduce this item from $6,371,000 to $6,216,000.

I am reducing this item to conform to the action I have taken in Item 1900-001-830.

Item 2200-001-001—For support of Department of Commerce. I reduce this item from $13,348,000 to $13,347,000 by reducing.

(h) 60-Economic Research from $851,000 to $850,000,

and by deleting Provision 2

I am deleting Provision 2, which would require quarterly reports to the Legislature regarding the award of contracts because I believe this would cause an unnecessary administrative cost during this fiscal crisis. I am reducing $1,000 from this item to reflect the savings that will be achieved based upon the deletion of this provision.

Item 2200-041-001—For support of Department of Commerce. I delete this item

I am deleting the $1,453,000 provided in this item for support of the Department

In 1986–87, the department closed the Boalt Hall legal clinic. No evidence has been provided to justify the reopening of this clinic. I am reducing $1,000 from this item to reflect savings that will be achieved based on removing the 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 Legal Office~~."

I am deleting Provision 1 because this provision and the location specified in the provision (Employment Discrimination Clinic at Boalt Hall School of Law) 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 Employment Discrimination Clinic at Boalt Hall School of Law, 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 $216,064,000 to $215,914,000 by reducing:

(a) 10-Tax Programs from $215,205,000 to $215,055,000,

and by deleting Provisions 2 and 3

I am reducing this item by $150,000 which would have supported the development of a tax burden model. While I appreciate the need for additional tax research, this project is not of sufficiently high priority to justify the use of limited General Fund resources

I am deleting Provision 3 to conform to the action I have taken above

I am deleting Provision 2, which would transfer $50,000 to the Auditor General to review and evaluate the appeals and settlement processes of income taxes The Auditor General already receives a separate appropriation to conduct studies and audits as directed by the Legislature

Item 1760-001-602—For support of Department of General Services I delete Provision 3

I am deleting Provision 3 because it restricts the department's ability to conduct necessary construction inspections of the California Reception Center in Los Angeles during 1991–92. This conforms to my actions in Items 5240-311-724, 5240-311-746, 5240-311-751 and 5240-496 which have the effect of continuing the construction of the California Reception Center in Los Angeles, as authorized in Chapter 165, Statutes of 1987.

Item 1760-001-666—For support of Department of General Services. I reduce this item from $394,780,000 to $394,779,000 by reducing:

(a) 100000-Personal Services from $216,907,000 to $216,906,000,

and by deleting Provision 11.

I am deleting $1,000 and Provision 11 which would require the Department of General Services to notify the Legislature of its intentions to enter into any new lease which exceeds $150,000 per month, including improvements, and involves a relocation of more than 250 employees This would delay the execution of leases and would infringe upon the Administration's ability to carry out programs in the most cost effective manner

Item 1880-001-001—For support of State Personnel Board. I revise this item by reducing:

(a) 10-Merit System Administration from $14,997,000 to $14,996,000,

(f) Reimbursements from −$5,496,000 to −$5,495,000,

and by deleting Provisions 1 and 2.

I am reducing $1,000 of the reimbursement authority augmentation and deleting Provisions 1 and 2. I support the unusual steps taken by the Legislature to help the Board reduce the backlog of complaints; however, I believe that these technical changes are necessary.

I am reducing these schedules to accurately reflect the intended action of the Legislature. These reductions do not reduce the total appropriation for this item.

I am deleting Provision 5 which would transfer $50,000 to the Auditor General to conduct a study to review and evaluate the appeals and settlement processes of income taxes. The Auditor General already receives a separate appropriation to conduct studies and audits as directed by the Legislature.

Item 1700-001-001—For support of Department of Fair Employment and Housing. I reduce this item from $10,584,000 to $10,583,000 by reducing

(a) 50-Administration of Civil Rights Law from $13,293,000 to $13,292,000, and by deleting Provision 1.

I am reducing this item by $1,000 because I disagree with the action taken by the Legislature in this and the related three items which have the effect of creating three additional legal offices. This action is neither economical nor programmatically necessary. 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

I believe 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, so 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 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 $445,000 to $444,000, revise the language in this item, and delete Provision 1

In 1986–87 the department closed the San Francisco legal office and consolidated the positions within the Sacramento office. Evidence has not been provided to justify the reopening of this office. I am reducing $1,000 from this item to reflect savings that will be achieved based upon the deletion of this provision.

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 provision concerning 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 $75,000 to $74,000, revise the language in this item, and delete Provision 1.

of Commerce's exempt positions funded from the General Fund. This item was left in the final version of the Budget Bill in error. The Legislature's final action was to restore the funding for these positions in Item 2200-001-001, as originally provided in the 1991-92 Governor's Budget. This technical veto will conform the Budget Act to the action taken by the Legislature.

Item 2200-101-147—For local assistance, Department of Commerce. I delete this item and Provision 1

I am deleting the $1,000,000 legislative augmentation from the Unitary Fund to establish a Defense Industry Conversion Local Assistance Program. By taking this action, an additional $1,000,000 will be transferred from the California Unitary Fund to the General Fund in accordance with other provisions of this act. Although I support efforts to mitigate the economic impact of major industry or military plant closures as provided by the proposed new program, my action is necessary to protect vital existing programs and to help provide for a prudent General Fund reserve for economic uncertainties.

I am deleting Provision 1 to conform to this action.

Item 2320-001-317—For support of Department of Real Estate I reduce this item from $33,859,000 to $31,159,000 by reducing:

(a) 10-Licensing and Education from $12,266,000 to $9,566,000,

and by deleting Provision 1.

I am reducing this item by $2,700,000 to reduce the amount to be allocated from the Education and Research Account within the Real Estate Fund for education purposes. The Governor's budget proposed the expenditure of $4,500,000 from the Education and Research Account This included $3,000,000 to be divided equally between UC Berkeley and UCLA as endowments to provide a permanent source of funding for each campus' Real Estate Center, $1,000,000 for the Real Estate Scholarship and Internship Grant Endowment Program of the California State University to provide financial assistance to minorities and disadvantaged students, and $500,000 for the Real Estate Education Scholarship Program for the community college system.

In this item, the Legislature restructured the proposal to instead provide $1,000,000 each for the UC Berkeley and UCLA Real Estate Centers; $1,000,000 for minority and low-income student assistance systemwide each for UC and CSU and $500,000 for minority and low-income student assistance systemwide for the community college system.

The reduced amount which the Legislature proposes for the UC Real Estate Centers would be insufficient to provide a permanent source of funding In addition, due to the unprecedented shortfall of General Fund revenues, excess reserves in the Real Estate Fund should be transferred to the General Fund to provide additional resources to maintain the State's highest priority programs. As the condition of the General Fund represents an overriding concern, I am reducing the amount proposed for the UC Real Estate Centers and student assistance by $2,700,000. This will continue the current level of support at the two UC campuses and allow the remaining funds to be transferred to address the General Fund shortfall. While I support the educational opportunities that would be afforded University of California students as a result of the Legislature's action, I believe the highest priority must be to reduce the impact of the General Fund shortfall on existing State programs before consideration can be given to program expansions.

I am deleting Provision 1. This language is inconsistent with my revised proposal and is unduly restrictive of Executive Branch authority to effectively administer state government.

Item 2660-001-042—For support of Department of Transportation. I revise this item by reducing:

(c) 30-Mass Transportation from $98,098,000 to $96,798,000, and

(k) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-001-046) from —$51,203,000 to —$49,903,000.

I am eliminating the legislative augmentation for the Caltrain Peninsula Commute Service because this action represents contingency budgeting, and as such, is inconsistent with prudent state budgeting practices. Although the Caltrain Service will benefit the residents of the Peninsula, the State should not assume responsibility for the Federal Government's share of this project. Further, there are sufficient resources available in the budget to assure current levels of service for the Peninsula Commute to be maintained throughout the fiscal year.

Item 2660-001-046—For support of Department of Transportation I reduce this item from $51,203,000 to $49,903,000.

I am reducing this item by $1,300,000 to conform to the action I have taken in Item 2660-001-042.

Item 2660-023-042—For loan from the State Highway Account to the General Fund for rail bond debt service I delete this item.

I am deleting this loan authority because it adds to the future liability of the General Fund. I support the Rail Bonds authorized by the voters last year and believe that legitimate General Fund costs for debt service should be recognized I realize that up to $1.3 billion of rail bonds may be issued through 1991–92 and result in additional General Fund costs for debt service. I would support those costs with the expectation that the Secretary for Business, Transportation and Housing Agency will hold the program administrators responsible for ensuring that·

— funds are allocated based on realistic time schedules and sound financial planning,
— priority for funding is given to projects that result in new or expanded rail service, and
— negotiations for right-of-way acquisitions ensure the purchases are based on true values and represent the most prudent uses of State funds in terms of capital investment and taxpayer return

Item 3360-001-465—For support of State Energy Resources Conservation and Development Commission I revise this item by reducing

(c) Special Items of Expense from $63,897,000 to $56,797,000.

Item 3360-001-465 contains a typographical error, the amount available under schedule (c) Special Items of Expense should have been $56,797,000, not $63,897,000. Therefore, I am revising this item to conform with the Legislature's intent.

Item 3540-001-001—For support of Department of Forestry and Fire Protection I revise this item by deleting Provision 3

I am deleting Provision 3, which would require that any federal funds received in excess of the amount scheduled in the budget ($500,000) for base fire suppression costs be used in lieu of General Fund and that the then available funds should revert to the General Fund. This provision constitutes an appropriation which I cannot support. I believe that any excess federal funds received for base fire suppression costs should be available, subject to the provisions of Section 28.00 of this act, for expenditure as may be deemed necessary by the Administration to effectively manage the fire protection program.

Item 3600-001-140—For support of Department of Fish and Game. I reduce this item from $12,327,000 to $12,246,000.

Item 3600-001-140 contains a typographical error, the amount appropriated by this item should have been $12,246,000, not $12,327,000. Therefore, I am reducing this item to conform with the Legislature's intent

Item 3790-001-516—For support of Department of Parks and Recreation. I reduce this item from $498,000 to $398,000.

I am deleting the $100,000 legislative augmentation to add boat patrol services at Turlock Lake from Item 3790-001-516 These boat patrol services should be funded by local residents or the local agencies responsible for operations at Turlock Lake.

Due to a technical error in the Budget Bill, no conforming action is needed in Item 3790-001-001.

Item 3790-011-263—For transfer to the General Fund, payable from the Off-Highway Vehicle Fund, Department of Parks and Recreation. I delete this item and Provision 1.

I am deleting the legislative action to transfer $8,100,000 from the Off-Highway Vehicle Fund to the General Fund. These funds collected specifically to support the Off-Highway Vehicle program have been committed for pending legislation to support an Off-Highway Vehicle Park.

I am deleting Provision 1 to conform with this action

Item 3790-111-235—For transfer to the Habitat Conservation Fund.

I am revising this item by deleting schedule (1) and (2) to make a technical correction to the Budget Bill. This is consistent with legislative action on this item which also conforms to the legislative action taken in Item 3790-101-262.

Item 3790-111-235—For transfer to the Habitat Conservation Fund, from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund for the Department of Parks and Recreation pursuant to Section 5923 of the Public Resources Code ~~; in accordance with the following:~~ .... (3,500,000)

~~(1) 50.20.262-Habitat Conservation Program grants. . . . .(2,000,000)~~

~~(2) 50.20.262-Santa Lucia Mountain Range. . ...(1,500,000)~~

Item 3790-490—Reappropriation, Department of Parks and Recreation.

I am revising this item by deleting the following project from Item 3790-490 to conform with the action taken by the Legislature at budget hearings.

786—California Wildlife, Coastal, Park Land Conservation Fund of 1988

~~(3) Item 3790-301-786(1), Budget Act of 1990, 90.68.605, Bemeia SRA: Land Restoration and Landfill Closure—Preliminary plans.~~

Item 4100-001-890—For support of the State Council on Developmental Disabilities I reduce this item from $5,350,000 to $5,100,000 by reducing·

(a) 10-State Council Operations from $1,315,000 to $1,065,000, and by deleting Provision 2

I am deleting the $250,000 augmentation which, upon transfer to the Department of Developmental Services, Item 4300-001-001, would have funded a needs assessment study for epileptics and women at risk of bearing a child with developmental disabilities caused by HIV infection and/or drug and alcohol abuse. While I am supportive of early identification and prevention of drug and alcohol abuse by pregnant mothers, those mothers with epilepsy are already receiving services under the entitlement provisions of the Lanterman Developmental Disability Service Act. Furthermore, the Department currently funds a statewide prevention program to serve parents and children at risk of incurring a developmental disability, such as those at risk as a result of HIV infection or drug and alcohol abuse. Finally, the Department will be participating in the fourth year of the federal Early Intervention Program, which is a comprehensive effort to identify and serve infants and toddlers who have or are at risk of incurring a developmental disability from any cause. In view of these facts, the proposed study appears to be unwarranted given the State's fiscal crisis.

I am deleting Provision 2 to conform to this action

Item 4120-101-001—For local assistance, Emergency Medical Services Authority. I reduce this item from $3,003,000 to $2,935,000 by increasing.

(b) Trigger reduction from −$54,000 to −$122,000.

I am deleting the $68,000 legislative augmentation to restore the Poison Control Center Program's trigger reduction. Although this program provides important services to the citizens of California, in light of the state's fiscal crisis, my highest priority must be to reduce the impact of the General Fund shortfall

Item 4260-001-001—For support of Department of Health Services. I reduce this item from $172,566,000 to $171,666,000 by reducing:

(1) 10-Public and Environmental Health from $121,298,000 to $120,398,000, and by deleting Provisions 7 and 12.

I am deleting the $900,000 increased General Fund expenditure authority for the loan to the Low-Level Radioactive Waste Disposal Fund This authority was inadvertently requested, but not necessary since the language added to Item 4260-001-227 provides the authority for making the loan.

I am deleting Provision 7 which expresses legislative intent to have the Food Safety Program, as authorized by Chapter 1200, Statutes of 1989, be entirely supported by fees I am concerned that it will be extremely difficult to have the proposed fees equitably collected from the appropriate parties which include national and international food processors whose products are sold in California. Given this concern, I am deleting this provision. The program will continue to be funded from the General Fund, consistent with the authorizing statute.

I am deleting Provision 12 which would require the Department of Health Services to attempt to distribute any General Fund reductions in its state operations budget in proportion to each program's General Fund share of the total General Fund appropriation. This language would interfere with the Executive Branch's authority by restricting its ability to allocate funding reductions based on overall priorities and program needs.

Item 4260-009-001—For transfer by the State Controller from the General Fund to the Low-Level Radioactive Waste Disposal Fund. I delete this item and Provision 1.

I am deleting this item which transfers $400,000 as a loan from the General Fund to the Low-Level Radioactive Waste Disposal Fund (LLRWDF) for an audit of the Low-Level Radioactive Waste disposal facility license designee. While I understand the concern of potential facility users that the fees associated with this facility be equitably established, I am not convinced that an audit is necessary at this time. Furthermore, no justification has been provided for the appropriate amount of funding to complete such an audit Finally, due to the pending delay in the completion of this project and the lack of revenues into the LLRWDF, I am concerned about the timeliness of this additional loan repayment to the General Fund

I am deleting Provision 1 to conform to this action.

Item 4260-009-227—For support, Department of Health Services, Program 10—Public and Environmental Health I delete this item and Provision 1.

I am deleting this $400,000 legislative augmentation and Provision 1 to conform with my action on Item 4260-009-001.

Item 4260-111-001—For local assistance, Department of Health Services. I delete provision 2(e).

I am deleting Provision 2(e) which continued the allocation of $26,597,000 in General Fund monies for the Medically Indigent Services Program pursuant to Section 16703(d) of the Welfare and Institutions Code for technical reasons. Since legislative action has been taken to remove the funding related to this allocation formula from this item concurrent with the State and local program realignment proposed in Assembly Bill 1288, this language is no longer applicable.

Item 4300-001-001—For support of Department of Developmental Disabilities I revise this item by reducing:

(a) 10-Community Services Program from $21,240,930 to $20,990,930,
and

(f) Reimbursements from −$1,331,000 to −$1,081,000,
and by deleting Provision 2.

I am revising this item to conform to the action taken in Item 4100-001-890.

I am deleting Provision 2 to conform to this action.

Item 4300-101-001—For local assistance, Department of Developmental Services, for Regional Centers. I reduce this item from $617,035,320 to $613,557,320 by reducing:

(ax) Regional Centers-Purchase of Services from $512,880,000 to $510,502,000, and by deleting

(ey) Unallocated trigger offset ($1,100,000)

I am reducing $2,378,000 as a technical correction in order to adjust the Regional Centers Purchase of Service budget. This reduction is necessary to offset the additional federal funds which are being given to the providers of out of home services due to a federal 5.3 percent Supplemental Security Income (SSI) Cost of Living Adjustment.

I am deleting the $1,100,000 unallocated trigger offset which was added to this item. Under existing policy and practice, the amount of General Fund included in the budgets of the regional centers and developmental centers is increased and decreased in accordance with the level of availability of Medi-Cal and Medicaid reimbursements In view of the fact that the Department now advises that it will receive greater reimbursements than it previously projected, it is only reasonable that they be used to offset General Fund expenditures. Furthermore, even after implementation of the trigger reduction, the level of funding for this item will increase over the amount provided in the Budget Act of 1990 by $80 million, or 15 0 percent

Item 4300-495—Reversion, Department of Developmental Services. I am revising this item to correct a technical error in the Budget Bill. This revision is consistent with the action taken by the legislative conference committee.

"4300-495-Reversion, Department of Developmental Services. As of June 30, 1991, ~~$700,000~~ $666,000 of the unencumbered balance of the following citation shall revert to the General Fund.

(1) Developmental Disabilities Program Development Fund"

Item 5180-001-001—For support of Department of Social Services. I reduce this item from $115,187,000 to $115,171,000 by reducing

(c) 30-Community Care Licensing from $61,551,000 to $61,535,000.

I am deleting the $16,000 legislative augmentation for purchase of a computer for the University of California at Davis for use while conducting a study of secured perimeters in Residential Care Facilities for the Elderly. Chapter 1372, Statutes of 1989 provided an annual $62,500 General Fund appropriation in each of three years, commencing in the 1989–90 fiscal year I believe the funds appropriated by the enabling legislation are sufficient to accomplish the purposes of this study.

Item 5180-151-001—For local assistance, Department of Social Services. I revise this item by deleting Provision 8.

I am deleting Provision 8 which would prohibit Los Angeles County from receiving State and Federal funding for the Greater Avenues for Independence (GAIN) program as long as the County contracted with a specific private firm for case-management services. This provision would restrict the County's ability to select cost-effective alternatives, consistent with State and Federal law, for GAIN program operations.

Item 5240-001-001—For support of Department of Corrections. I reduce this item from $2,262,511,000 to $2,262,509,000 by reducing:

(a) 21-Institution Program from $2,295,691,000 to $2,293,989,000,

(f) Reimbursements from −$26,671,000 to −$24,971,000,

and by deleting Provisions 8, 10 and 12.

I am deleting the legislative augmentation of $1,700,000 in federal anti-drug abuse grant funds from the Office of Criminal Justice Planning which would be redirected from the Department of Justice Narcotic Enforcement program. This augmentation is not based on any specific proposed use of the funds and is therefore premature at this time. I am deleting Provision 8 to conform to this action.

I am reducing this item by $1,000 and deleting Provision 10 which would require the department to review a specific housing facility, located in a specific county, for the establishment of a specific inmate program I believe this language would unnecessarily restrict the Administration's ability to manage its programs and to develop alternatives for housing the State's felon inmate population

I am reducing this item by $1,000 and deleting Provision 12 which would dictate to the Department of Corrections the specific program areas to be exempt from or affected by the $112 million unallocated reduction the Legislature has imposed on the

Department. Given the department's critical responsibility for steadily increasing inmate and parole populations, I do not believe that a reduction of this magnitude can be achieved without significant risk to public safety. Further, it is unreasonable to prohibit budget cuts in certain areas while concurrently implementing the "trigger" and other reductions required by other sections of this Act.

Item 5240-311-724—For capital outlay, Department of Corrections. I delete this item.

I am deleting the $571,945 legislative augmentation to complete the California State Prison-Madera County II project. The funding for this augmentation is from the appropriation provided by Chapter 165, Statutes of 1987, for the California Reception Center-Los Angeles County project. The augmentation will adversely impact public peace, health, and safety by stopping the construction of the Reception Center project and delaying the occupation of the California State Prison-Los Angeles County (Lancaster) project Both of these facilities will be completed before the Madera County II project and are necessary to house an increasing inmate population

Item 5240-311-746—For capital outlay, Department of Corrections. I delete this item.

I am deleting the $114,861,431 legislative augmentation to complete the California State Prison-Madera County II project. The funding for this augmentation is from the appropriation provided by Chapter 165, Statutes of 1987, for the California Reception Center-Los Angeles County project This augmentation would take funds away from construction of the Los Angeles Reception Center This action will adversely impact public peace, health, and safety by stopping the construction of the Reception Center project and delaying the Los Angeles County (Lancaster) project Both of these facilities will be completed before the Madera County II project and are necessary to house an increasing inmate population.

Item 5240-311-751—For capital outlay, Department of Corrections. I delete this item.

I am deleting the $36,400,000 legislative augmentation for the California State Prison-Madera County II project This action will ensure that sufficient funds remain available from currently limited bond fund reserves to meet the capital outlay program needs for the Department of Corrections and the Department of the Youth Authority.

Item 5240-496—Reversion, Department of Corrections. I delete this item.

I am deleting this reversion Chapter 165, Statutes of 1987, provides funding for the completion of the California Reception Center-Los Angeles County project. This reversion will adversely impact public peace, health, and safety by stopping the construction of the Reception Center project and delaying the occupation of the California State Prison-Los Angeles County (Lancaster) project. Both of these facilities are necessary to house an increasing inmate population

Item 5450-001-001—For support of the Youthful Offender Parole Board. I am revising this item by deleting Provisions 1 and 2

I am deleting Provisions 1 and 2, which make full funding of the Youthful Offender Parole Board's budget contingent upon specified limits for the assignment of initial parole consideration dates and for the net sentence time additions and reductions given to wards committed to the Youth Authority. This language infringes upon the Executive Branch's authority. The Youthful Offender Parole Board must be allowed to exercise its current statutory authority to establish parole consideration dates, as well as time additions or reductions for minors committed to the Youth Authority, which are consistent with the treatment needs of the minors and also serve public safety

Item 5460-001-001—For support of the Department of the Youth Authority. I reduce this item from $298,218,000 to $298,217,000 by reducing:

(b) 20-Institutions and Camps from $280,765,000 to $280,764,000,

and by deleting Provision 2.

I am reducing this item by $1,000 and deleting Provision 2, which prohibits funding for the Department of the Youth Authority's Free Venture projects unless the Department establishes a policy prohibiting the use of wards as strikebreakers This language inappropriately and unnecessarily restricts the Administration's ability to manage its programs and also intrudes upon private sector labor relations. Such restrictions could significantly reduce the number of employers willing to contract with the State to support this valuable program. Although the costs of renegotiating contracts or recruiting new contract employers, which would result from this language, have not been budgeted for 1991–92, I am reducing this item by $1,000 to reflect such costs

Item 6110-001-001—For support of Department of Education I reduce this item from $45,690,000 to $41,440,000 by reducing.

(b) 20-Instructional Support from $32,502,000 to $28,252,000,

and by revising Provision 11.

I am reducing this item by $4,250,000 as well as an additional $5,000,000 in item 6110-113-001 because the funds could be used to continue the existing testing program rather than for the development and implementation of a new program However, I am setting aside $9,250,000 for legislation that will establish a new pupil testing program that 1) includes the capacity to produce individual pupil scores demonstrating how well each child has learned at selected grade levels and subjects, 2) includes end-of-course exams which will measure against fixed standards how well pupils have learned the material included in the curriculum frameworks, and 3) yields results which can be reported in terms that have common statewide meaning

It is my intent to continue to work with the Superintendent of Public Instruction, the testing staff, and interested legislators in developing a new comprehensive testing program prior to the end of the legislative session

I am revising Provision 11 to conform to this action.

"11 Of the funds appropriated in this item, ~~$5,000,000~~ *$750,000* is for the purposes of a pupil testing program."

Item 6110-101-001—For local assistance, Department of Education. I reduce this item from $10,474,489,000 to $10,424,489,000 by reducing:

(a) Program 10.10.001.001-School Apportionments, District Revenue Limits, from $10,373,483,000 to $10,323,483,000

I am making a partial reduction of $50,000,000 to the legislative augmentation of $250,000,000 for attendance accounting. The Legislature has not yet addressed the conflict between the law and administrative regulations with respect to funding for student attendance. As I noted in my January budget proposal, current law provides for a reasonable minimum student attendance standard of four hours per day Yet, existing administrative regulations conflict with the law and its intent. Under those regulations, a student is considered to have met the requirement if he or she is present for any part of the day. Therefore, I am requesting a legislative resolution of this matter with the expectation of improving student attendance. However, if there is no legislative resolution, I would expect the Superintendent of Public Instruction and other officers of the State to enforce current law

I also am revising Provision 16, which would restrict the State Board of Education's authority to grant waivers as part of district reorganizations This provision also would penalize districts which previously sought and received waiver requests under the provisions of current law Any change in the role and authority of the State Board of Education should be addressed in separate legislation, not the Budget Act

16 Notwithstanding any other provision of law, no local education agency shall receive apportionments for any pupil in independent study without written agreement with the parent or guardian of such pupil prior to the commencement of independent study. Such written agreement shall specify the actual dates of participation, the methods and objectives of the independent study program for such pupil.

~~(a) Notwithstanding any other provision, and notwithstanding any waiver by the State Board of Education of any formula or method of calculating revenue limits contained in any statute or administrative rule or regulation, any school district formed pursuant to a voter approved action for the reorganization of any district that becomes effective for all purposes on or after July 1, 1991, shall have its revenue limit per unit of average daily attendance computed pursuant to Section 35735 of the Education Code.~~

~~(b) Provision (a) shall not apply to the unification of a new district which will have boundaries that are congruent to the June 30, 1991 boundaries of an existing high school district.~~

~~(c) Provision (a) shall not apply to any district formed pursuant to a voter approved action for the unification of any district that becomes effective for all purposes on or after July 1, 1991 and which received a waiver of Education Code Section 35735 from the State Board of Education prior to June 30, 1991. The increase in the revenue limit per unit of average daily attendance calculated pursuant to clause (2) of subdivision (a) of Section 35735 of the Education Code for any such district shall, notwithstanding any waiver by the State Board of Education, not exceed 10 percent of the revenue limit calculated pursuant to clause (1) of subdivision (a).~~

Item 6110-106-001—For local assistance, Department of Education. I reduce this item from $123,330,000 to $123,130,000 and delete Provision 10

I am deleting the $200,000 legislative augmentation to be deposited in a newly created Local Management Support Fund. This augmentation is contingent upon enactment of AB 1200 to reimburse the county superintendent of schools for expanded responsibilities in reviewing and monitoring school district finances. Increased costs to county offices of education as a result of school districts adopting unbalanced budgets should be borne by those districts.

I am deleting Provision 10 to conform to this action.

Item 6110-113-001—For local assistance, Department of Education. I delete this item.

I am deleting this item, as well as an additional $4,250,000 in Item 6110-001-001, because the funds could be used to continue the existing testing program, rather than for the development and implementation of a new program However, I am setting aside $9,250,000 for legislation that will establish a new pupil testing program that 1) includes the capacity to produce individual pupil scores demonstrating how well each child has learned at selected grade levels and subjects, 2) includes end-of-course exams, which will measure against fixed standards how well pupils have learned material included in the curriculum frameworks, and 3) yields results, which can be reported in terms that have common statewide meaning.

It is my intent to continue to work with the Superintendent of Public Instruction, the testing program staff, and interested legislators in developing a new comprehensive testing program prior to the end of the legislative session.

Item 6110-114-001—For local assistance, Department of Education. I reduce this item from $438,457,000 to $437,757,000 by reducing:

(6) 10.10.018.030-San Jose Unified School District from $22,000,000 to $21,300,000, and by revising Provision 5.

I am reducing $700,000 for the San Jose Unified School District and deleting language in Provision 5 of this item which would permit the district to use these funds for the remodeling of a cafeteria stage. All other school districts are prohibited from using desegregation funds for capital outlay costs. This language would provide an unwarranted exception for the San Jose Unified School District and would establish a precedent which could lead to additional school districts attempting to fund capital expenses with desegregation funds. The State School Building Lease-Purchase Program is the appropriate source to fund school district capital outlay costs.

I am revising Provision 5 to conform to this action.

"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

~~This provision 5 shall not exclude reimbursement for costs of remodeling a cafeteria stage in the San Jose Unified School District. Such costs shall be funded from the existing appropriation and shall not exceed a total of $700,000 in the 1991–92 fiscal year. It is the intent of the Legislature that this paragraph of provision 5 shall be valid only until June 30, 1993.~~"

Item 6110-119-959—For local assistance, Department of Education I revise this item by deleting Provision 1

I am deleting Provision 1 of this item because it would require that the Foster Youth Services program be funded from the Proposition 98 General Fund Reserve in the event there is not enough revenue in the Foster Children and Parent Training Fund to support the Foster Youth Services program. Because this Act does not include a Proposition 98 General Fund Reserve, there is no Proposition 98 funding from which to support this program

Item 6110-166-001—For local assistance, Department of Education. I reduce this item from $3,000,000 to $1,516,000

I am deleting the legislative augmentation of $1,484,000 for the Partnership Academies Program because the amount included in my proposed budget ($1,516,000 Proposition 98 General Fund and $814,000 Carl D. Perkins Act Federal Trust Fund) is sufficient to continue funding the Partnership Academies at the same level as in 1990–91. While I am supportive of the Partnership Academies Program, I have not proposed to fund discretionary growth for existing General Fund programs.

6110-166-890—For local assistance, Department of Education. I revise this item by deleting Provision 6 which requires local educational agencies in receipt of specified federal vocational education funds to expend them for services to special education pupils.

The Carl D. Perkins Vocational and Applied Technology Act of 1990 deliberately reduces the State level control over use of funds authorized by that Act While the Act does require targeted use of the funds at the local level, within those requirements it allows maximum local discretion over the most effective and appropriate use of the funds. Therefore, Provision 6 could be deemed as unlawfully interfering with the flexibility local educational agencies need in order to carry out the federal requirements While I have no policy objection to the apparent intent of Provision 6, the State cannot risk a federal audit exception which would result in the loss of these funds.

Item 6110-191-001—For local assistance, Department of Education. I reduce this item from $106,791,000 to $104,491,000 by reducing.

(ax) 20.60.050.002-Beginning Teacher Support and Assessment Study from $3,300,000 to $1,000,000,

and by deleting Provision 12

I am reducing the funding for the New Teacher Project from $3 3 million to $1 million to be consistent with the funding level proposed in the May Revision. This will permit an additional year of evaluation for those pilot projects, which have not completed the full three year evaluation period.

I also am deleting Provision 12 which would permit school districts to carryover unexpended 1990–91 Mentor Teacher funds if funding is not provided for the program in the 1991–92 Budget. Deficiency funding of $1.6 million is already provided for the 1990—91 costs of the Mentor Teacher program. If school districts were not required to return unexpended funds, this language would increase the deficiency costs.

Item 6110-196-001—For local assistance, Department of Education. I reduce this item from $420,277,000 to $415,150,000 by reducing:

(a) 30.10.010.000-Special Prog, Child Dev, Preschool Ed (Proposition 98) from $74,248,000 to $73,682,000,

(c) 30.10.020-Child Care Services (Proposition 98) from $195,353,000 to $191,512,000 by reducing·

(1) 30.10.020.001-Special Prog, Child Dev, General Child Development Programs from $158,565,000 to $155,597,000,

(2) 30.10.020.002-Special Prog, Child Dev, Campus Children Centers from $4,448,000 to $4,364,000,

(3) 30.10.020.003-Special Prog, Child Dev, High School Age Parenting & Infant Dev from $8,037,000 to $7,887,000,

(4) 30.10.020.004-Special Prog, Child Dev, Migrant Day Care from $2,625,000 to $2,575,000,

(5) 30.10.020.007-Special Prog, Child Dev, Alter Pmt Prog from $4,458,000 to $4,373,000,

(6) 30.10.020.008-Special Prog, Child Dev, Resource & Ref from $1,916,000 to $1,700,000,

(7) 30.10 020 009-Special Prog, Child Dev, Campus Child Care Tax Bailout from $4,853,000 to $4,762,000,

(8) 30.10.020.010-Special Prog, Child Dev, Protective Svcs from $199,000 to $195,000,

(9) 30.10.020.015-Special Prog, Child Dev, Extended Day Care from $10,057,000 to $9,868,000,

(10) 30.10.020.018-Special Prog, Child Dev, Exceptional Needs from $195,000 to $191,000,

(d) 30.10 020-Child Care Service (Non P98) from $138,336,000 to $137,616,000 by reducing:

(7) 30.10.020.098-Special Prog, Child Dev, Resource & Ref (Non P98) from $7,506,000 to $6,786,000,

I am deleting the following legislative augmentation $4,227,000 for growth above the statutorily required level and $900,000 for increasing services provided by Resource and Referral Agencies. I am setting aside $5 million to provide the comprehensive service grants to State Preschool Programs upon enactment of AB 1670 (Hansen).

I am revising Provision 19 to conform to this action.

"19. Of the amount appropriated in this item, ~~$19,345,000~~ *$15,118,000* is for the purpose of enrollment growth and, therefore, shall be allocated to services to additional full-time equivalent children. Funds for enrollment growth shall not be used for a cost-of-living adjustment for existing contracted services."

Item 6120-011-001—For support of California State Library, Division of Libraries, and California Library Services Board. I revise Provision 1.

I am revising Provision 1 because it is inconsistent with the fact that the State Library is part of the Executive Branch. I recognize, however, that a research services bureau in the State Library could provide a valuable service. Since the State Library is part of the Executive Branch, these services should be available to all State agencies and appointments related to this function should be made by the Governor. I expect the State Librarian to present me with his plan before any expenditure of these funds.

"1. Of the funds appropriated to this item, $3,627,211 shall be used to fund a ~~Legislative~~ Research Service Bureau."

Item 6440-013-001—For support of the University of California. I reduce this item from $16,620,000 to $11,454,000.

I have left unchanged the proposed augmentations for retirees' health benefits. However, the current fiscal crisis requires that I delete the $5,166,000 legislative augmentation for increased employer contributions for health benefits for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants.

Item 6600-013-001—For support of Hastings College of the Law. I reduce this item from $110,000 to $80,000.

I have left unchanged the proposed augmentations for retirees' health benefits. However, the current fiscal crisis requires that I delete the $30,000 legislative augmentation for increased employer contributions for health benefits for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants.

Item 6610-036-001—For support of Trustees of the California State University, and the California State University I reduce this item from $19,296,000 to $11,127,000.

I have left unchanged the proposed General Fund augmentations for retirees' health benefits. However, the current fiscal crisis requires that I delete the legislative augmentation of $8,169,000 for increased employer contributions for health benefits for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants.

Item 6870-101-959—For local assistance, Board of Governors of the California Community Colleges. I delete Provision 1.

Provision 1 provides that any federal Title IV(e) funds received as reimbursement for the Foster Parent Training Program be deposited into the Foster Children and Parent Training Fund and be added to the appropriation for the Foster Parent Training Program This provision constitutes an item of appropriation which I cannot support. I believe that any reimbursements should revert to the General Fund in order to compete for expenditure with other high priority programs.

Item 8100-101-196—For local assistance, Office of Criminal Justice Planning I reduce this item from $2,566,000 to $1,000,000 and delete Provision 1.

I am reducing this legislative augmentation by $1,566,000 The Legislature added this item to provide funding for the support of local county offices of education for Gang Risk Intervention Pilot Programs (GRIPPs). Since the evaluation of the Los Angeles County GRIPP, which is in the second year of its pilot, provides information regarding the first year only of its program, it is premature to expand the GRIPP statewide. I am supportive of providing $1,000,000 to continue the GRIPP in Los Angeles County for another year to allow the Los Angeles GRIPP to provide a more thorough evaluation of its pilot in order to determine the value of this program model. Additionally, since the $2,566,000 was initially earmarked in my proposed budget for transfer to the General Fund to help alleviate the State's fiscal crisis, the remaining $1,566,000 should continue to be available for such transfer

I am deleting Provision 1 to conform to this action.

Item 8100-101-890—For local assistance, Office of Criminal Justice Planning I reduce this item from $56,170,000 to $54,195,000 by reducing

(f) 50.71.120-Federal Anti-Drug Abuse Program from $40,635,000 to $38,660,000

I am reducing this item by $1,700,000 to conform to the action I have taken in Item 5240-001-001. With this action, together with my actions reflected below, I will be seeking special legislation to fund programs that are consistent with a drug enforcement plan which would include strategies and priorities of both my Administration and the Legislature. This plan may include the reconsideration of program activities which were proposed as a part of my 1991–92 expenditure plan.

I am deleting the $175,000 legislative augmentation for Community Youth Gang Services. Currently, this program receives in excess of $4.2 million in federal, state and local funds. There is insufficient information available in which to analyze the

merits of augmenting this program. Without such information, it is difficult to determine if this augmentation is consistent with federal guidelines which restrict the State's use of federal Anti-Drug Abuse funds to drug enforcement purposes only.

I am also deleting the $100,000 legislative augmentation for the Gang Violence Reduction Program. It is my understanding that these monies would be used to partially fund the continuation of the three-year demonstration project which is administered by the California Youth Authority The final year of funding from the Department of Alcohol and Drug Programs will terminate on September 30, 1991. While I am supportive of efforts in this area, there is insufficient information to determine if this portion of the program should continue beyond the three-year demonstration period It is unclear at this time if this proposal is consistent with federal guidelines which restrict the State's use of federal Anti-Drug Abuse funds.

Item 8120-021-268—For transfer from the Peace Officers' Training Fund to the General Fund. I delete this item.

I am deleting this item which specified that any funds in excess of a reserve equalling five percent of expenditures from the Peace Officers' Training Fund shall revert to the General Fund While I recognize that this fund transfer would help the General Fund situation, this item reflects an action which I cannot support Unlike other transfers of reserves from special funds, this transfer was made possible only by a corresponding reduction in the program's expenditures from the level I had proposed in my January budget proposal. As a matter of priority, I believe that all funds which are deposited in the Peace Officers' Training Fund should be available to reimburse local law enforcement agencies to ensure that their staff are properly trained to enforce laws and protect the public. I support the restoration of the level of expenditures for this program that I proposed in January.

Item 8350-001-001—For support of Department of Industrial Relations I reduce this item from $117,647,000 to $115,525,000 by reducing:

(c) 30-Workers' Compensation Administration from $79,335,000 to $78,308,000,

(g) 60-Promotion, Development, and Administration of Apprenticeship and other on-the-job training from $3,972,000 to $2,672,000,

(p) Amount payable from Workers' Compensation Administration Revolving Fund (Item 8350-001-223) from −$15,486,000 to −$15,281,000,

and by deleting provisions 3 and 4

I am deleting the $1,027,000 legislative augmentation and 12 4 personnel years, which would have increased the number of conference referees and disability evaluators within the Workers' Compensation Administration program because these positions are in excess of the staffing level recommended by the recently completed workload study on the Division of Workers' Compensation and because there is no workload information to support the additional positions. I am also deleting the $205,000 augmentation payable from the Workers' Compensation Administration Revolving Fund, Item 8350-001-223 in conformance with this action.

I am reducing the $3,800,000 legislative augmentation for support of the Promotion, Development, and Administration of Apprenticeship and other on-the-job training by $1,300,000 to $2,500,000. Chapter 451, Statutes of 1990 authorized the collection of fees to support the apprenticeship program and $1,300,000 should be funded by those employers and employees who benefit from its existence. With this action, I am allowing the appropriation in Chapter 451, Statutes of 1990 to operate

I am deleting Provision 4 to conform with this action

I am deleting Provision 3, which requires that 1) no funds shall be expended for the rent or lease of Workers' Compensation Appeals Board (WCAB) district offices, which do not comply with the provisions of law requiring that State facilities be accessible and usable by the physically handicapped (Section 4450 of the Government Code), 2) the salaries of the Administrative Director of the Division of Workers' Compensation and all of the Deputy Directors shall not receive their salaries while any WCAB facility is not handicap accessible, and, 3) any WCAB office which is not in compliance with Section 4450 of the Government Code shall be relocated

immediately. I am deleting this provision because it could unnecessarily disrupt operations of the program by requiring immediate closure of offices, which were acquired prior to the existence of current access regulations. Additionally, the Department is in compliance with Section 4450 of the Government Code, which applies when a new location for a Workers' Compensation Appeals Board District Office is selected. Thus, this provision constitutes a substantive change in law, which can only be included within a single subject bill, not the Budget Act.

Item 8350-001-223—For support of Department of Industrial Relations. I reduce this item from $15,486,000 to $15,281,000

I am reducing this item by $205,000 to conform to the action I have taken in Item 8350-001-001.

Item 8550-001-191—For support of California Horse Racing Board. I delete Provision 1.

I am deleting Provision 1 of this item, which would require the California Horse Racing Board to pay $135,000 to the Auditor General for a fiscal impact study regarding the consolidation of racing dates between the two Northern California racetracks. The Auditor General currently receives a separate appropriation to conduct studies and audits as directed by the Legislature.

Item 8780-001-001—For support of Commission on California State Government Organization and Economy. I reduce this item from $719,000 to $609,000 by reducing:

(a) 10-Commission on California State Government Organization and Economy from $726,000 to $616,000.

I am deleting the legislative augmentation of $110,000 for two additional staff persons. Although I have great respect for the work of this small commission, I am unable to support this augmentation during the current fiscal crisis.

Item 8940-001-001—For support of Military Department. I revise this item by deleting:

(jx) 80-California Citizen Soldier Museum ($100,000), and

(1x) Amount payable from the Unitary Fund (Item 8940-001-147) (−$100,000).

I am deleting the $100,000 legislative augmentation from the Unitary Fund to support initial operating expenses for the California Citizen Soldier Museum in Sacramento. It is important to honor our citizen soldiers; however, I cannot support this augmentation from the state's limited resources. It is important to note that current law allows the Military Department to solicit and use donations of funds for the support of the Museum.

Item 8940-001-147—For support of the Military Department. I delete this item.

I am deleting the $100,000 legislative augmentation to this item to conform to the action I have taken in Item 8940-001-001

Item 9210-103-001—For local assistance, Local Government Financing I delete Provision 7

Provision 7 declares that the $35 million reduction in subventions to redevelopment agencies is for one year only. Because this language suggests a commitment to restore full funding in subsequent years, it is an infringement on the Executive Branch's normal budget development process and implies Gubernatorial concurrence on a statement of legislative intent. Since the Special Supplemental Subventions program was established in 1984, tax increment revenues for redevelopment agencies have more than doubled. In 1989–90, those agencies had total revenues of $1.8 billion and unreserved fund balances in excess of $2.1 billion The $9.6 million included in this Budget is intended to assist those relatively few agencies that have relied on this program for ten percent or more of their revenue or to support bond debt. Any statement of intent to provide additional funding in future years would be tantamount to a commitment to future appropriations. For these reasons, I delete Provision 7

Item 9800-001-001—For augmentation for Employee Compensation. I reduce this item from $42,210,000 to $8,598,000 by reducing:

(a) 10.01-Civil Service Employees-Represented from $34,069,000 to $6,932,000,

(b) 10.02-Civil Service Employees-Nonrepresented from $6,903,000 to $1,406,000,

(c) 10 03-Exempt/Excluded and Other Employees from $820,000 to $170,000,

(d) 10.05-Judiciary, from $916,000 to $188,000,

(e) 10 06-Legislative Employees, from $1,261,000 to $260,000, and

(f) Unallocated trigger reduction, from −$1,759,000 to −$358,000.

I have left unchanged the proposed General Fund augmentations for retirees' health benefits. However, the current fiscal crisis requires that I reduce this item to reflect the deletion of funding for employer health benefit contribution increases for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants.

Item 9800-001-494—For augmentation for Employee Compensation, payable from other unallocated special funds. I reduce this item from $19,880,000 to $4,070,000 by reducing:

(a) 10.01-Civil Service Employees-Represented from $15,904,000 to $3,256,000,

(b) 10.02-Civil Service Employees-Nonrepresented from $3,578,000 to $733,000,

(c) 10.03-Exempt/Excluded and Other Employees from $398,000 to $81,000.

I have left unchanged the proposed augmentations from special funds for retirees' health benefits. However, the current fiscal crisis requires that I reduce this item to reflect the deletion of funding for employer health benefit contribution increases for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants

Item 9800-001-988—For augmentation for Employee Compensation payable from other unallocated nongovernmental cost funds. I reduce this item from $15,267,000 to $3,252,000 by reducing:

(a) 10.01-Civil Service Employees-Represented from $12,213,000 to $2,602,000,

(b) 10.02-Civil Service Employees-Nonrepresented from $2,748,000 to $585,000, and

(c) 10.03-Exempt/Excluded and Other Employees from $306,000 to $65,000.

I have left unchanged the proposed augmentations from non-government cost funds for retirees' health benefits. However, the current fiscal crisis requires that I reduce this item to reflect the delegation of funding for employer health benefit contribution increases for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants

Item 9800-011-001—For augmentation for Employee Compensation (Proposition 98). I reduce this item from $425,000 to $25,000 by reducing:

(a) 10.01-Civil Service Employees-Represented from $425,000 to $25,000.

I have left unchanged the proposed augmentations under Proposition 98 funding for retirees' health benefits. However, the current fiscal crisis requires that I reduce this item to reflect the deletion of funding for employer health benefit contribution increases for active state employees. I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants.

SEC 4.00—Employer's Contribution for Health Benefits. I am revising this Control Section

"SEC. 4.00. Notwithstanding any other provisions of law, the employer's contributions for the 1991–92 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 $174 for basic and related major medical plans with respect to ~~employees or~~ annuitants enrolled for self alone, or $323 for an ~~employee or~~ annuitant so enrolled for self and one family member, or $410 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."

I have left unchanged the proposed augmentations for retirees' health benefits. However, the current fiscal crisis requires that I revise Section 4.00 to conform to the action I have taken in Items 9800-001-001, 9800-001-494, 9800-011-001 and 9800-001-988, to limit employer contributions for health benefits for active State employees to 1990–91 levels. The employer's contributions for the 1991–92 fiscal year, with respect to each State officer or employee, including those in academic positions with a California State University or College, shall be $157 for basic and related major medical plans with respect to employees enrolled for self alone, or $292 for an employee so enrolled for self and one family member, or $367 for an employee 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.

I would support development of cost containment policies designed to reduce costs both to the employer and to employees and their families while maintaining quality care for employees, dependents and annuitants.

SEC 9.10—Related to the Supplemental Report of the Committee on Conference on the Budget Bill. I deleted this Control Section.

I am deleting this section because to do otherwise would imply that I concur with the contents of this report. It is unreasonable to expect State agencies to respond to the number of special requests during a year when budget cuts will severely impact their ability to perform their statutory duties.

The people of California would be best served by the Governor and the Legislature working together to ensure that administrative reports and practices are consistent with legislative policies. I look forward to the opportunity to develop mutually acceptable guidelines for the supplemental report

SEC 11.50—Transfers pursuant to Section 6217 of the Public Resources Code.

I am reducing the amount of Tidelands Oil Revenue to be allocated to the California Housing Trust Fund from $3,000,000 to $1,742,000 by reducing schedule (b) by $1,258,000 At the end of the 1990–91 fiscal year, the California Housing Trust Fund will have an uncommitted fund balance which, together with the revised allocation of new revenue, will fully fund the programs as budgeted

SEC 12 00—State Appropriations Limit. I am deleting the language in Subsection (b) which provides that the Legislature may determine the amount of change to the population of California in the event the Census Bureau elects not to adjust the 1990 census and is not ordered to do so by the court.

While I recognize the significance of an accurate population count to the State of California, I do not believe that the Legislature alone should have the responsibility for determining the appropriate adjustment.

SEC 12.30—Special Fund for Economic Uncertainties. I revise this Control Section by deleting subsection (e).

I am deleting the language in Subsection (e) which would authorize the Director of Finance to allocate unspecified amounts as grants or loans to counties or cities and counties which demonstrate difficulties in balancing their 1991–92 budgets.

This language constitutes an appropriation which I cannot support. The State is not in a financial position to be able to provide local agencies with additional General Fund assistance at this time, and it would not be fair to create an expectation of assistance that cannot be fulfilled. Furthermore, it would not be good public policy to require the state to review and pass judgment on individual city and county budget decisions

I recognize that these are difficult times for local governmental entities, which is the reason I proposed and support the intergovernmental realignment built into this budget. This realignment will provide the funding and flexibility local agencies need to address their most pressing priorities.

SEC. 15.00—Homeless Programs Budget Display. I delete this Control Section.

I am deleting Section 15.00 which requires the Department of Finance to include a display in the 1992–93 Governor's Budget that reflects all expenditures for homeless programs in a single item. The data requested can be obtained without limiting my ability to choose the information I believe appropriate for describing the State Budget

SEC. 22.00—Set-aside Appropriation for Future GAIN Expenditures pursuant to Chapter 1568, Statutes of 1990. I am revising language to make a technical correction in subdivision (e) to conform to the May Revision adjustment of the amounts displayed in subdivision (c) (2) and (c) (3)

(e) Of the funds allocated to the State Department of Education pursuant to this section, ~~$250,000~~ *$200,000*, less any appropriate reduction pursuant to Section 13308 of the Government Code as amended by Chapter 458, Statutes of 1990, 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.

With the above deletions, revisions and reductions, I hereby approve Assembly Bill No. 222.

PETE WILSON, 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 1991."

SEC. 1.20. (a) Chapter 458, Statutes of 1990, requires the reduction of General Fund appropriations on July 1 of a fiscal year when certain specified conditions exist. This act, with the reductions required by subdivision (b), incorporates the reductions required by subdivision (c) of Section 13308 of the Government Code, as added by Chapter 458, and for purposes of subdivision (d) of Section 13308, these incorporated reductions shall be deemed to have been made pursuant to subdivision (c) of that section. It is the intent of the Legislature that each statutory program payment that is funded by a General Fund appropriation that is so reduced pursuant to subdivision (c) of Section 13308 of the Government Code, shall also be reduced pursuant to subdivision (d) of that section or as specifically otherwise provided by Chapter 458.

(b) The Department of Finance shall reduce amounts credited to General Fund appropriations for merit salary adjustments and operating expense and equipment increases as reflected in the 1991–92 Governor's Budget, except the following:

State Board of Equalization
Franchise Tax Board
State Personnel Board
Employment Development Department
Department of Developmental Services (Centers)
Department of Mental Health (Hospitals)
Department of Corrections
Department of the Youth Authority
University of California
California State University
Hastings College of the Law
California Maritime Academy
Veterans' Home of California
Senate
Assembly
Legislative Counsel Bureau
Judiciary
Governor
Office of Planning and Research
Office of Emergency Services
Department of Finance

(c) The Department of Finance shall adjust the amounts of the reductions made pursuant to this section to ensure that the reductions appropriately reflect legislative action to reduce or increase appropriations relative to the amount proposed by the Governor. These adjustments shall take effect no sooner than 30 days after notification to the Joint Legislative Budget Committee and the chair of the fiscal committees.

(d) Notwithstanding any other provision of law, including, but not limited to, Chapter 458, no further reduction shall be made to General Fund appropriations on July 1, 1991, pursuant to Chapter 458.

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 1991–92 fiscal year beginning July 1, 1991, and ending June 30, 1992. 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 1991–92, 1992–93 and 1993–94 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 1991–92 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, 1992, 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		47,200,000
Schedule:		
(a) 101001-Salaries of Senators	2,610,000	
(b) 317295-Mileage	4,000	
(c) 317292-Expenses	815,000	
(d) 500004-Operating Expenses	43,291,000	
(e) 317296-Automotive Expenses	480,000	

Provisions:

1. The funds appropriated in Schedule (d) are for operating 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 Operating Fund.
2. The funds appropriated in Schedule (e) are for operating 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 Operating Fund.

Item		Amount
4. The funds appropriated by schedules (a), (b), (c), and (e) may be transferred to the Senate Operating Fund.		
0120-011-001—For support of Assembly		66,800,000
Schedule:		
(a) 101001-Salaries of Assemblymembers	5,076,000	
(b) 317295-Mileage	8,000	
(c) 317292-Expenses	1,616,000	
(d) 500004-Operating Expenses	59,477,000	
(e) 317296-Automotive Expenses	623,000	
Provisions:		
1. The funds appropriated in Schedule (d) are for operating 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 Operating Fund.		
2. The funds appropriated in Schedule (e) are for operating 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 Operating Fund.		
4. The funds appropriated by schedules (a), (b), (c), and (e) may be transferred to the Assembly Operating Fund.		
0160-001-001—For support of Legislative Counsel Bureau		53,410,000
Schedule:		
(a) Support	53,541,000	
(b) Reimbursements	−131,000	
Judicial		
0250-001-001—For support of Judiciary		150,526,000
Schedule:		
(a) 10-Supreme Court	16,656,000	
(b) 20-Courts of Appeal	105,575,000	
(c) 30-Judicial Council	31,082,000	

Item		Amount
(d) 40-Commission on Judicial Performance	1,457,000	
(e) Reimbursements	−14,000	
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0250-001-044)	−123,000	
(g) Unallocated trigger reduction	−4,107,000	

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. Any federal funds received by the Judicial Council as reimbursement for the costs of the child support guidelines study required by Chapter 1493 of the Statutes of 1990 shall revert to the unappropriated surplus of the General Fund.

0250-001-044—For support of Judiciary, for payment to Item 0250-001-001, payable from the Motor Vehicle Account, State Transportation Fund 123,000

0250-101-001—For reimbursement of any county, in whose superior court a judge of the municipal court of another county is assigned to sit and which is required by subdivision (b) of Section 68540 of the Government Code to reimburse the other county from which such assignment is made, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time while serving on assignment in its superior court; and for payment to any county, in whose superior court a judge of its municipal court is assigned to sit, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time while serving on assignment in its superior court; and for payment to any county of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government

Item		Amount
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.....		2,266,000
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.....		33,818,000
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.....		73,502,000
Schedule:		
(a) State share and advances per Section 68206 of the Government Code for Superior Court judges..	74,692,000	
(b) Reimbursements.....	−1,190,000	
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.....		423,634,000
Schedule:		
(a) 10-Block Grants for Trial Courts..	387,850,000	
(c) 30-Block Grant Supplement for Salaries of Municipal Court Judges.....	49,113,000	

Item		Amount
(d) 40-Block Grant Supplement for Salaries of Justice Court Judges...	4,322,000	
(e) Unallocated trigger reduction.....	−17,651,000	
Provisions:		
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 of this act shall not apply to this item.		
2. Of the amount appropriated in schedule (a), $234,000,000 is contingent on separate legislation that (1) enacts certain court efficiencies and savings and (2) increases state revenue from the court system that, taken together, more than cover the increased costs to the state from the assumption of trial court funding.		

Executive

0500-001-001—For support of Governor and of Governor's office		9,085,000
Schedule:		
(a) Support	6,869,000	
(b) Governor's Residence (Support)	35,000	
(c) Governor's Residence (Rental)	50,000	
(d) Special Contingent Expenses	40,000	
(e) Overseas Offices	2,386,000	
(f) Unallocated trigger reduction	−295,000	
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		839,000
Schedule:		
(a) Support	1,331,000	
(b) Trigger reduction	−27,000	
(c) Reimbursements	−465,000	
0520-001-001—For support of Secretary for Business, Transportation and Housing, for payment to Item 0520-001-044		425,000
0520-001-044—For support of Secretary for Business, Transportation and Housing, payable from the Motor Vehicle Account, State Transportation Fund		697,000

Item		Amount
Schedule:		
(a) 10-Administration of Business, Transportation and Housing Agency	1,679,000	
(b) Reimbursements	−554,000	
(c) Amount payable from the General Fund (Item 0520-001-001)	−425,000	
(d) Unallocated trigger reduction to General Fund Item 0520-001-001.	−3,000	
0530-001-001—For support of Secretary for Health and Welfare		1,525,000
Schedule:		
(a) 10-Secretary for Health and Welfare	2,130,000	
(b) Trigger reduction	−37,000	
(c) Reimbursements	−418,000	
(d) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−150,000	
0540-001-001—For support of Secretary for Resources.		1,404,000
Schedule:		
(a) 10-Administration of Resources Agency	1,937,000	
(b) Trigger reduction	−40,000	
(c) Reimbursements	−46,000	
(d) Amount payable from the California Environmental License Plate Fund (Item 0540-001-140)	−75,000	
(e) Amount payable from the Environmental Enhancement and Mitigation Demonstration Program Fund (Item 0540-001-183)	−120,000	
(f) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 0540-001-235)	−127,000	
(g) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 0540-001-235, Budget Act of 1990 as reappropriated by Item 0540-491, Budget Act of 1991)	−125,000	

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
0540-001-183—For support of Secretary for Resources, for payment to Item 0540-001-001, payable from the Environmental Enhancement and Mitigation Demonstration Program Fund			120,000
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			127,000
0540-491—Reappropriation, Secretary for Resources. The Balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation, and shall be available for encumbrance and expenditure until June 30, 1992:			
235—Public Resources Account, Cigarette and Tobacco Products Surtax Fund.			
(1) Item 0540-001-235, Budget Act of 1990			
0550-001-001—For support of the Secretary for Youth and Adult Correctional Agency			959,000
Schedule:			
(a) 10-Correction Programs		991,000	
(b) Trigger reduction		−32,000	
0550-001-751—For support, Youth and Adult Correctional Agency			183,000
0558-101-001—For local assistance, California Academic Volunteer and Mentor Service program			5,000,000
Provisions:			
1. Funds appropriated in this item shall be available for the California Academic Volunteer and Mentor Service program subject to the authorization of the program through the enactment of Senate Bill 1114 of the 1990–91 Regular Session or similar authorizing legislation.			
0580-001-001—For support of Office of California-Mexico Affairs			293,000
Schedule:			
(a) 10-Office of California-Mexico Affairs		295,000	
(b) Trigger reduction		−2,000	

Item		Amount
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		2,103,000
Schedule:		
(a) Support	2,112,000	
(b) Trigger reduction	−9,000	
0585-001-981—For support of California State World Trade Commission, payable from the California State World Trade Commission Fund		2,103,000
Schedule:		
(a) 100000-Personal Services	1,179,000	
(b) 300000-Operating Expenses and Equipment	933,000	
(c) Unallocated trigger reduction (to reflect trigger reduction in Item 0585-001-001)	−9,000	
0650-001-001—For support of Office of Planning and Research		4,492,000
Schedule:		
(a) 11-State Planning and Policy Development	5,480,000	
(b) Trigger reduction	−97,000	
(c) Reimbursements	−107,000	
(d) Amount payable from the Property Acquisition Law Account (Item 0650-001-002)	−430,000	
(e) Amount payable from the Federal Trust Fund (Item 0650-001-890)	−354,000	
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
0650-001-890—For support of Office of Planning and Research, for payment to Item 0650-001-001, payable from the Federal Trust Fund		354,000
0650-011-001—For support of Office of Planning and Research		370,000
Provisions:		
1. The amount provided in this item is intended for support of the Secretary for Child Development and Education Agency.		

Item		Amount
0690-001-001—For support of Office of Emergency Services		18,153,000
Schedule:		
(a) 15-Mutual Aid Response	12,120,000	
(b) 35-Plans and Preparedness	14,800,000	
(c) 45-Disaster Assistance	4,493,000	
(d) 55.01-Administration and Executive	2,069,000	
(e) 55.02-Distributed Administration and Executive	−2,069,000	
(f) Unallocated trigger reduction	−94,000	
(g) Reimbursements	−1,174,000	
(h) Amount payable from the Hazardous Waste Control Account, General Fund (Item 0690-001-014)	−2,277,000	
(i) Amount payable from the Nuclear Planning Assessment Special Account (Item 0690-001-029)	−1,085,000	
(j) Amount payable from the Federal Trust Fund (Item 0690-001-890)	−4,902,000	
(k) Amount payable from the Office of Emergency Services Disaster Administration Support Account (Section 8690.4 of the Government Code)	−3,728,000	
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.		
0690-001-014—For support of Office of Emergency Services, for payment to Item 0690-001-001, payable from the Hazardous Waste Control Account, General Fund		2,277,000
0690-001-029—For support of Office of Emergency Services, for payment to Item 0690-001-001, payable from the Nuclear Planning Assessment Special Account		1,085,000

Item		Amount
0690-001-890—For support of Office of Emergency Services, for payment to Item 0690-001-001, payable from the Federal Trust Fund		4,902,000
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		38,574,000
Schedule:		
(a) Local assistance	38,874,000	
(b) Trigger reduction	−300,000	
Provisions:		
1. Of the amount appropriated, the State Controller shall transfer amounts determined by the Office of Emergency Services to the Public Facilities and Local Agency Response Account, Natural Disaster Assistance Fund, and the Street and Highway Account, Natural Disaster Assistance Fund.		
0690-101-029—For local assistance, Office of Emergency Services, Program 35—Plans and Preparedness, payable from the Nuclear Planning Assessment Special Account		1,968,000
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 during the 1991–92 fiscal year.		
0750-001-001—For support of Office of the Lieutenant Governor		1,627,000
Schedule:		
(a) 10-General Activities	1,711,000	
(b) Trigger reduction	−14,000	
(c) Reimbursements	−70,000	
0820-001-001—For support of Department of Justice		178,366,000
Schedule:		
(a) 11.01-Executive-Administration	57,173,000	
(b) 11.02-Distributed Executive-Administration	−57,173,000	
(c) 25-Executive Programs	5,715,000	
(d) 30-Civil Law	41,473,000	
(e) 40-Criminal Law	52,636,000	
(f) 45-Public Rights	23,532,000	
(g) 50-Law Enforcement	175,705,000	
(gx) Unallocated trigger reduction	−3,559,000	
(h) Reimbursements	−50,348,000	
(i) Amount payable from the Attorney General Antitrust Account, General Fund (Item 0820-001-012)	−506,000	
(j) Amount payable from the Hazardous Waste Control Account, General Fund (Item 0820-001-014)	−1,759,000	
(k) Amount payable from the Fingerprint Fees Account, General Fund (Item 0820-001-017)	−20,096,000	

Item		Amount
(m)	Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0820-001-044)	—16,897,000
(n)	Amount payable from the Hazardous Substance Subaccount, General Fund (Item 0820-001-455)	—1,328,000
(o)	Amount payable from the Dealers' Record of Sale Special Account, General Fund (Item 0820-001-460)	—6,133,000
(p)	Amount payable from the Narcotics Assistance and Relinquishment by Criminal Offender Fund (NARCO) (Item 0820-001-469)	—529,000
(q)	Amount payable from the Gaming Registration Fee Account, General Fund (Item 0820-001-477)	—296,000
(r)	Amount payable from the Federal Trust Fund (Item 0820-001-890)	—10,733,000
(s)	Amount payable from the Federal Asset Forfeiture Account, Special Deposit Fund (Item 0820-001-942)	—4,384,000
(t)	Amount payable from the State Asset Forfeiture Account, Special Deposit Fund (Item 0820-011-942)	—4,127,000

Provisions:

1. The Attorney General shall submit to the Legislature, the Department of Finance, and the Governor the quarterly and annual reports which he or she submits to the federal government on the activities of the Medi-Cal Fraud Unit.
2. Notwithstanding any other provision of law, the Department of Justice may purchase vehicles of any type or class, which in the judgment of the Attorney General or his or her designee are necessary to the performance of the investigatory and enforcement responsibilities of the Department of Justice, from the funds appropriated for that purpose in this item.

Item	Amount
3. Any funds received by the Department of Justice as reimbursements for legal services provided by the Civil Law Program in excess of $25,952,000 and by the Public Rights Program in excess of $4,279,000, 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 Antitrust Account, General Fund	506,000
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	1,759,000
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	20,096,000
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	16,897,000
0820-001-455—For support of the Department of Justice, for payment to Item 0820-001-001, payable from the Hazardous Substance Subaccount, General Fund	1,328,000
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	6,133,000
Provisions:	
1. Dealers' 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	529,000

Item	Amount
0820-001-477—For support of Department of Justice, for payment to Item 0820-001-001, payable from the Gaming Registration Fee Account, General Fund	296,000
0820-001-890—For support of Department of Justice for payment to Item 0820-001-001, payable from the Federal Trust Fund	10,733,000
0820-001-942—For support of Department of Justice for payment to Item 0820-001-001, payable from the Federal Asset Forfeiture Account, Special Deposit Fund	4,384,000
0820-011-012—For transfer to the General Fund, payable from the first $600,000 in revenues in the Attorney General 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 Asset Forfeiture Account, Special Deposit Fund	4,127,000
0820-101-001—For local assistance, Department of Justice	592,000
Schedule:	
(a) 25-Executive Programs 467,000	
(b) 50-Law Enforcement 150,000	
(c) Unallocated trigger reduction ..... −25,000	
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.	
0820-101-460—For local assistance, Department of Justice	850,000
Schedule:	
(a) 50-Law Enforcement 850,000	
0820-301-460—For capital outlay, Department of Justice, payable from the Dealers' Record of Sale Special Account, General Fund	250,000
Schedule:	
(1) 80.01.020-Minor Projects 250,000	
0820-495—Reversion, Department of Justice. As of June 30, 1991, $1,000,000 resulting from lower least costs for the Department of Justice's Los Angeles facility that houses the Crack Down on Cocaine Task Force Program shall revert to the unappropriated surplus of the General Fund.	

Item		Amount
0840-001-001—For support of State Controller		74,981,200
Schedule:		
(a) 100000-Personal Services	69,322,000	
(b) 300000-Operating Expenses and Equipment	38,959,200	
(c) Reimbursements	−26,062,000	
(cx) Unallocated trigger reduction	−820,000	
(d) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0840-001-061)	−2,699,000	
(e) Amount payable from Highway Users Tax Fund (Item 0840-001-062)	−403,000	
(f) Amount payable from the State School Building Lease-Purchase Fund (Item 0840-001-344)	−555,000	
(g) Amount payable from the State School Building Aid Fund (Item 0840-001-739)	−120,000	
(h) Amount payable from the Federal Trust Fund (Item 0840-001-890)	−1,840,000	
(i) Amount payable from the Assessment Fund (Item 0840-001-903)	−634,000	
(j) Amount payable from nongovernmental cost funds, Retail Sales Tax Fund (Item 0840-001-988)	−167,000	
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 1991–92 fiscal year, and no funds shall be allocated to the State Controller pursuant to Section 30462 during the 1991–92 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.		

Item		Amount
3. 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 progress of the automation project on or before September 15, 1991 and February 15, 1992.		
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		2,699,000
0840-001-062—For support of State Controller, for payment to Item 0840-001-001, payable from the Highway Users Tax Fund		403,000
0840-001-344—For support of State Controller, for payment to Item 0840-001-001, payable from the State School Building Lease-Purchase Fund		555,000
0840-001-739—For support of State Controller, for payment to Item 0840-001-001, payable from the State School Building Aid Fund		120,000
0840-001-890—For support of State Controller, for payment to Item 0840-001-001, payable from the Federal Trust Fund		1,840,000
0840-001-903—For support of State Controller, for payment to Item 0840-001-001, payable from the Assessment Fund		634,000
0840-001-988—For support of State Controller, for payment to Item 0840-001-001, payable from nongovernmental cost funds (Retail Sales Tax Fund)		167,000
0860-001-001—For support of State Board of Equalization		127,609,000
Schedule:		
(a) 100000-Personal Services	164,145,000	
(b) 300000-Operating Expenses and Equipment	46,150,000	
(d) Reimbursements	−56,036,000	
(e) Amount payable from the Hazardous Waste Control Account, General Fund (Item 0860-001-014)	−3,908,000	
(f) Amount payable from the State Emergency Telephone Number Special Account, General Fund (Item 0860-001-022)	−513,000	

Item	Amount
(g) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0860-001-061)	−6,203,000
(h) Amount payable from the Cigarette Tax Fund (Item 0860-001-086)	−8,465,000
(i) Amount payable from the Cigarette and Tobacco Products Surtax Fund (Item 0860-001-230)	−447,000
(j) Amount payable from the Oil Spill Prevention and Administration Fund (Item 0860-001-320)	−396,000
(k) Amount payable from the Integrated Waste Management Account, Solid Waste Management Fund (Item 0860-001-387)	−150,000
(*l*) Amount payable from the Solid Waste Disposal Site and Maintenance Account, General Fund (Item 0860-001-435)	−278,000
(m) Amount payable from the Underground Storage Tank Clean Up Fund, General Fund (Item 0860-001-439)	−550,000
(n) Amount payable from the Hazardous Substances Subaccount, General Fund (Item 0860-001-455)	−418,000
(o) Amount payable from the Energy Resources Programs Account, General Fund (Item 0860-001-465)	−88,000
(p) Amount payable from the Consumer Affairs Fund (Item 0860-001-702)	−163,000
(q) Amount payable from the Timber Tax Fund (Item 0860-001-965)	−2,549,000

Provisions:

1. Of the $8,465,000 appropriated from the Cigarette Tax Fund, $1,978,000 shall be allocated for funding 50 percent of the direct cost of the County Surveys activity and $6,487,000 shall be allocated for funding the State-Assessed Property Program, other than the Private Railroad Car Tax activity.

Item Amount

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 that amount is either in excess of or less than $28,625,000 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 $26,797,000.
3. Of the amount appropriated in this item, $31,800 is provided for transfer to the State Controller to be allocated to the University of California, to match a contribution from the California Policy Seminar of $49,800, for a 1991 grant by the California Policy Seminar to develop a data base and methodology for predicting revenue and tax burden effects of changes in the California property tax system.
4. It is the intent of the Legislature that the State Board of Equalization resolve tax controversies, without litigation, on a basis that is fair to both the state and the taxpayer and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the board.
5. Of the amount appropriated in this item, $50,000 shall be transferred to Item 0155-001-001 for the purpose of conducting a study by the Auditor General to review and evaluate thoroughly the appeals and settlement processes of the State Board of Equalization and the Franchise Tax Board for franchise and income taxes. The study shall include all of the following:
   (a) Evaluate the appeals process from the initial appeal at the Franchise Tax Board or State Board of Equalization through to any appeal reaching the State Supreme Court and review a representative number of cases.

Item	Amount
(b) Review the laws, rules, and regulations relevant to the Franchise Tax Board and State Board of Equalization policies of making determinations, hearing cases, appealing decisions, and settling cases.	
(c) Obtain an understanding of the board's methodology for appealing cases.	
(d) Determine the costs and benefits of these decisions to both the particular taxpayers involved in the decisions and to all taxpayers in California.	
(e) Evaluate possibilities, costs, and benefits of streamlining and expediting the appeals process, and of establishing special settlement authority.	
The study shall be submitted to the Legislature not later than April 15, 1992.	
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	3,908,000
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	513,000
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	6,203,000
0860-001-086—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Cigarette Tax Fund	8,465,000
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	447,000
0860-001-320—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Oil Spill Prevention and Administration Fund	396,000
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	150,000

Item		Amount
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		278,000
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		550,000
0860-001-455—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Hazardous Substances Subaccount, General Fund		418,000
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		88,000
0860-001-702—For support of State Board of Equalization, for payment to Item 0860-001-001, payable from the Consumer Affairs Fund		163,000
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		2,549,000
0890-001-001—For support of Secretary of State		26,636,000
Schedule:		
(a) 100000-Personal Services	14,832,000	
(b) 300000-Operating Expenses and Equipment	9,546,000	
(c) Special Item of Expense—Election Related Costs	6,711,000	
(d) Unallocated trigger reduction	−331,000	
(e) Reimbursements	−4,122,000	
0950-001-001—For support of State Treasurer		6,740,000
Schedule:		
(a) 100000-Personal Services	10,931,000	
(b) 300000-Operating Expenses and Equipment	5,270,000	
(c) Reimbursements	−9,364,000	
(d) Unallocated trigger reduction	−97,000	

Item		Amount
0950-301-036—For capital outlay, State Treasurer, payable from the Special Account for Capital Outlay Schedule:		942,000
(1) 90.10.001-Sacramento Unruh Building: Computer Site Preparation—Construction	942,000	
0956-001-171—For support of California Debt Advisory Commission, payable from the California Debt Advisory Commission Fund		1,364,000
Schedule:		
(a) 100000-Personal Services	723,000	
(b) 300000-Operating Expenses and Equipment	641,000	
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		428,000
Schedule:		
(a) 100000-Personal Services	205,000	
(b) 300000-Operating Expenses and Equipment	223,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures 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.		

Item		Amount
0965-001-215—For support of California Industrial Development Financing Advisory Commission, payable from the Industrial Development Fund.....		476,000
Schedule:		
(a) 100000—Personal Services.....	229,000	
(b) 300000—Operating Expenses and Equipment.....	247,000	
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 Tax Credit Allocation Committee, payable from the Mortgage Bond and Tax Credit Allocation Fee Account, General Fund.....		1,421,000
Schedule:		
(a) 100000—Personal Services.....	665,000	
(b) 300000—Operating Expenses and Equipment.....	756,000	
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California 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 than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.		
0971-001-528—For support of California Alternative Energy Source Financing Authority, payable from the California Alternative Energy Authority Fund		181,000

Item		Amount
Schedule:		
(a) 100000—Personal Services	114,000	
(b) 300000—Operating Expenses and Equipment	67,000	
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 joint 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		8,816,000
Schedule:		
(a) 10-Education	9,850,000	
(b) 30-California Afro American Museum	1,397,000	
(c) 40.01-Administration	959,000	
(d) 40.02-Distributed Administration	−959,000	
(e) Unallocated trigger reduction	−120,000	
(f) Reimbursements	−229,000	
(g) Amount payable from the Exposition Park Improvement Fund (Item 1100-001-267)	−2,082,000	
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 increases state costs by $25,000 or more unless, not		

Item	Amount
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, after taking into account the trigger reduction, $1,341,000 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, for payment to Item 1100-001-001, payable from the Exposition Park Improvement Fund	2,082,000
1100-301-768—For capital outlay, California Museum of Science and Industry	41,351,000
Provisions:	
1. The amount appropriated in this item shall be used for the correction (whether through repair, retrofitting or new construction) of all seismic and other fire and life safety problems identified with the Armory and Ahmanson buildings located at the California Museum of Science and Industry.	

Item		Amount
1100-490—Reappropriation, California Museum of Science and Industry. Notwithstanding any other provision of law, up to $1,000,000 of the appropriation made by Item 1100-001-267, Budget Act of 1990, from the Exposition Park Improvement Fund is hereby reappropriated for the purpose of planning, acquiring, and constructing temporary exhibit buildings and shall be available for expenditure until June 30, 1992.		
1110-001-494—Unallocated departmental costs-Department of Consumer Affairs		2,236,000
(a) Investigators' salary increase	557,000	
(b) Departmental relocation costs	970,000	
(c) Departmental EDP costs	709,000	
Provisions:		
1. The maximum transfer amounts specified in subdivision (b) of Section 6.50 shall not apply to this item.		
2. The funds appropriated in Categories (a) to (c), inclusive, are to be allocated by executive order of the Department of Finance to the various boards, bureaus and committees within the Department of Consumer Affairs, for increased departmental costs associated with an investigator salary increase, relocation costs and increased EDP costs, in such amounts as will make sufficient money available for the increased costs which are chargeable to the various special funds within the Department of Consumer Affairs.		
1120-001-704—For support of Board of Accountancy, payable from the Accountancy Fund		7,126,000
Schedule:		
(a) 3-Board of Accountancy	7,145,000	
(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		3,882,000
Schedule:		
(a) 6-Board of Architectural Examiners	3,887,000	
(b) Reimbursements	−5,000	
1140-006-001—For support of State Athletic Commission		765,000
Schedule:		
(a) 9-State Athletic Commission	1,168,000	

Item		Amount
(b) Trigger reduction	−19,000	
(c) Amount payable from the Boxers Neurological Examination Account (Item 1140-006-492)	−384,000	
1140-006-492—For support of the Athletic Commission, for payment to Item 1140-006-001, payable from the Boxers Neurological Examination Account		384,000
1150-008-421—For support of Bureau of Automotive Repair, Department of Consumer Affairs, payable from the Vehicle Inspection and Repair Fund		73,121,000
Schedule:		
(a) 12-Bureau of Automotive Repair	73,239,000	
(b) Reimbursements	−118,000	
Provisions:		
1. Of the amount appropriated in this item, $4,800,000 shall be available for expenditure by the bureau only after the Department of Finance has reviewed and approved the bureau's workload management study and not sooner than 30 days after notification in writing of the necessity therefor to the chairpersons of the fiscal committees of the Legislature 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.		
1160-010-713—For support of State Board of Barber Examiners, payable from the State Board of Barber Examiners' Fund		986,000
Schedule:		
(a) 15-State Board of Barber Examiners	987,000	
(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		3,298,000
Schedule:		
(a) 18-Board of Behavioral Science Examiners	3,794,000	
(b) Reimbursements	−496,000	
1180-014-717—For support of Cemetery Board, Program 21, payable from the Cemetery Fund		371,000
1200-016-157—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Collection Agency Fund		1,549,000
Schedule:		
(a) 24.10.010-Collection Agencies	1,556,000	

Item		Amount
(b) Reimbursements	−7,000	
1210-018-769—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Private Investigator Fund		5,655,000
Schedule:		
(a) 24.20.010-Private Investigators	7,083,000	
(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		34,552,000
Schedule:		
(a) 30-Contractors' State License Board	34,605,000	
(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.

Item		Amount
(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 Contingent Fund		4,665,000
Schedule:		
(a) 33-State Board of Cosmetology	4,686,000	
(b) Reimbursements	−21,000	
1260-024-741—For support of Board of Dental Examiners of California, payable from the State Dentistry Fund		4,081,000
Schedule:		
(a) 36-Board of Dental Examiners	4,144,000	
(b) Reimbursements	−63,000	
1270-026-380—For support of Board of Dental Examiners of California, payable from the Dental Auxiliary Fund		960,000
Schedule:		
(a) 36-Board of Dental Examiners	964,000	

Item		Amount
(b) Reimbursements	−4,000	
1280-028-325—For support of Bureau of Electronic and Appliance Repair, Department of Consumer Affairs, Program 39, payable from the Electronic and Appliance Repair Fund		1,258,000
1330-036-750—For support of State Board of Funeral Directors and Embalmers, payable from the State Funeral Directors and Embalmers Fund		779,000
Schedule:		
(a) 48-State Board of Funeral Directors and Embalmers	785,000	
(b) Reimbursements	−6,000	
1340-038-205—For support of State Board of Registration for Geologists and Geophysicists, Program 51, payable from the Geology and Geophysics Fund		401,000
1350-040-001—For support of State Board of Guide Dogs for the Blind		43,000
Schedule:		
(a) 54-State Board of Guide Dogs for the Blind	44,000	
(b) Trigger reduction	−1,000	
1360-042-752—For support of Bureau of Home Furnishings, Department of Consumer Affairs, payable from the Bureau of Home Furnishings Fund		2,607,000
Schedule:		
(a) 57-Bureau of Home Furnishings	2,632,000	
(b) Reimbursements	−25,000	
1360-042-753—For support of Bureau of Home Furnishings, Department of Consumer Affairs, Program 57, payable from the Dry Cleaning Account, Bureau of Home Furnishings Fund		59,000
1370-044-757—For support of California State Board of Landscape Architects, Program 60, payable from the State Board of Landscape Architects Fund		680,000
1390-046-758—For support of the Medical Board of California, payable from the Contingent Fund of the Medical Board of California		24,730,000
Schedule:		
(a) 63.10.010-Medical Board of California	25,959,000	
(b) 63.15-Registered Dispensing Opticians	188,000	
(c) 63.10.020-Distributed Medical Board of California	−1,046,000	
(d) Reimbursements	−183,000	

Item		Amount
(e) Amount payable from the Dispensing Opticians Fund (Item 1390-047-175)	−188,000	
1390-047-175— For support of Dispensing Opticians, Medical Board of California, for payment of Item 1390-046-758, payable from the Dispensing Opticians Fund		188,000
1400-048-108—For support of the Acupuncture Committee, Medical Board of California, payable from the Acupuncturists Fund		704,000
Schedule:		
(a) 63.20-Acupuncture Committee	711,000	
(b) Reimbursements	−7,000	
1410-050-208—For support of Hearing Aid Dispensers Examining Committee, Medical Board of California, payable from the Hearing Aid Dispensers Fund		431,000
Schedule:		
(a) 63.30-Hearing Aid Dispensers Examining Committee	440,000	
(b) Reimbursements	−9,000	
1420-052-759—For support of Physical Therapy Examining Committee, Medical Board of California, payable from the Physical Therapy Fund		750,000
Schedule:		
(a) 63.40-Physical Therapy Examining Committee	815,000	
(b) Reimbursements	−65,000	
1430-054-280—For support of Physician's Assistant Examining Committee, Medical Board of California, payable from the Physician's Assistant Fund		569,000
Schedule:		
(a) 63.50-Physician's Assistant Examining Committee	572,000	
(b) Reimbursements	−3,000	
1440-056-295—For support of Podiatry Examining Committee, Medical Board of California, payable from the Podiatry Fund		915,000
Schedule:		
(a) 63.60-Podiatry Examining Committee	919,000	
(b) Reimbursements	−4,000	
1450-058-310—For support of the Board of Psychology, Medical Board of California, payable from the Psychology Fund		1,554,000
Schedule:		
(a) 63.70-Board of Psychology	1,592,000	

Item		Amount
(b) Reimbursements	−38,000	
1455-059-319—For support of Respiratory Care Examining Committee, Medical Board of California, payable from the Respiratory Care Fund		908,000
Schedule:		
(a) 63.75-Respiratory Care Examining Committee	935,000	
(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		289,000
Schedule:		
(a) 63.80-Speech Pathology and Audiology Committee	301,000	
(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		413,000
Schedule:		
(a) 66-State Board of Examiners of Nursing Home Administrators	414,000	
(b) Reimbursements	−1,000	
1480-064-763—For support of State Board of Optometry, payable from the State Optometry Fund		805,000
Schedule:		
(a) 69-Board of Optometry	811,000	
(b) Reimbursements	−6,000	
1490-066-767—For support of California State Board of Pharmacy, payable from the Pharmacy Board Contingent Fund		3,324,000
Schedule:		
(a) 72-Board of Pharmacy	3,368,000	
(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		4,598,000
Schedule:		
(a) 75-State Board of Registration for Professional Engineers and Land Surveyors	4,602,000	
(b) Reimbursements	−4,000	
1510-070-761—For support of Board of Registered Nursing, payable from the Board of Registered Nursing Fund		10,050,000

Item		Amount
Schedule:		
(a) 78-Board of Registered Nursing...	10,575,000	
(b) Reimbursements.....	−525,000	
Provisions:		
1. During the 1991–92 fiscal year, the board shall not expend an amount that will result in a deficit in the Board of Registered Nursing Fund.		
1520-072-771—For support of Certified Shorthand Reporters Board, payable from the Shorthand Reporters' Fund.....		421,000
Schedule:		
(a) 81-Certified Shorthand Reporters Board.....	422,000	
(b) Reimbursements.....	−1,000	
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.....		208,000
1530-074-775—For support of Structural Pest Control Board, payable from the Structural Pest Control Fund.....		2,349,000
Schedule:		
(a) 84-Structural Pest Control Board.	2,559,000	
(b) Reimbursement.....	−2,000	
(c) Amount payable from the Structural Pest Control Education and Enforcement Fund (Item 1530-074-399).....	−208,000	
1540-076-406—For support of Tax Preparers Program, payable from the Tax Preparers Fund.....		1,246,000
Schedule:		
(a) 87-Tax Preparers Program.....	1,261,000	
(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.....		844,000
Schedule:		
(a) 90.10.010-Board of Examiners in Veterinary Medicine.....	870,000	
(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.....		118,000

Item		Amount
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		3,049,000
Schedule:		
(a) 91.10.010-Vocational Nurses	3,102,000	
(b) 91.10.020-Distributed Vocational Nurses	−37,000	
(c) Reimbursements	−16,000	
1600-084-780—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, Program 91, payable from the Vocational Nurse and Psychiatric Technician Examiners Fund, Psychiatric Technicians Account		953,000
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		1,457,000
Schedule:		
(a) 93-Division of Consumer Services	1,506,000	
(b) Trigger reduction	−23,000	
(c) Reimbursements	−26,000	
1655-090-702—For support of Department of Consumer Affairs, payable from the Consumer Affairs Fund		0
Schedule:		
(a) 93.01-Division of Consumer Services	1,382,000	
(b) 94.01.010-Division of Administration	9,960,000	
(c) 94.01.020-Division of Investigation	4,911,000	
(e) 93.02-Distributed Division of Consumer Services	−1,382,000	
(f) Division of Technology	5,350,000	
(g) 94.02-Distributed Administration	−14,589,000	
(h) Distributed Division of Technology	−5,331,000	
(i) Reimbursements	−301,000	
1655-095-702—For transfer from the Consumer Affairs Fund to the Service Revolving Fund for the operation and maintenance of the building located at and bounded by 10th, 11th, N and O streets in the City of Sacramento		(1,282,000)

Item		Amount
1700-001-001—For support of Department of Fair Employment and Housing		10,584,000
Schedule:		
(a) 50-Administration of Civil Rights Law	13,293,000	
(b) Trigger reduction	−305,000	
(c) Reimbursements	−13,000	
(d) Amount payable from the Federal Trust Fund (Item 1700-001-890)	−2,391,000	
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		2,391,000
1700-011-001—For support of the Department of Fair Employment and Housing, Los Angeles Legal Office		610,000
Provisions:		
1. The funds appropriated in this item shall be spent only in Los Angeles for legal staff and support or legal staff.		
1700-021-001—For support of the Department of Fair Employment and Housing, San Francisco legal office		445,000
Provisions:		
1. The funds appropriated in this item shall be spent only in San Francisco for legal staff and support of legal staff.		
1700-031-001—For support of the Department of Fair Employment and Housing, Boalt Hall Legal Office		75,000
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		827,000
Schedule:		
(a) 10-Fair Employment and Housing Commission	837,000	
(b) Trigger reduction	−10,000	
1710-001-001—For support of State Fire Marshal		4,625,000
Schedule:		
(a) 10-State Fire Marshal	15,032,575	
(b) Trigger reduction	−73,000	

Item		Amount
(c) Reimbursements	−6,835,575	
(d) Amount payable from the California Fire and Arson Training Fund (Item 1710-001-198)	−1,476,000	
(e) Amount payable from the California Fireworks Licensing Fund (Item 1710-001-199)	−387,000	
(f) Amount payable from the Hazardous Liquid Pipeline Safety Fund (Item 1710-001-209)	−1,537,000	
(g) Amount payable from the Federal Trust Fund (Item 1710-001-890)	−99,000	
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		1,476,000
1710-001-199—For support of the State Fire Marshal, for payment to Item 1710-001-001, payable from the California Fireworks Licensing Fund		387,000
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		1,537,000
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		216,064,000
Schedule:		
(a) 10-Tax Programs	215,205,000	
(b) 20-Homeowners and Renters Assistance	2,238,000	
(c) 30-Political Reform Audit (1,200,000)	0	
(d) 70-Contract Work	2,516,000	
(e) 80.01-Administration	16,606,000	
(f) 80.02-Distributed Administration	−16,606,000	
(h) Reimbursements	−2,516,000	
(i) Amount payable from the Delinquent Tax Collection Fund (Revenue and Taxation Code Sections 18839 and 26256)	−1,208,000	
(j) Amount payable from the Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, Fish and Game Preservation Fund (Item 1730-001-200)	−28,000	
(k) Amount payable from the U.S. Olympic Committee Fund (Item 1730-001-800)	−21,000	

Item		Amount
(*l*)	Amount payable from the State Children's Trust Fund (Item 1730-001-803)	−25,000
(m)	Amount payable from the California Alzheimer's Disease and Related Disorders Research Fund (Item 1730-001-823)	−32,000
(n)	Amount payable from the California Election Campaign Fund (Item 1730-001-905)	−18,000
(o)	Amount payable from the California Seniors Fund (Item 1730-001-983)	−20,000
(p)	Amount payable from the Vietnam Veterans Memorial Account (Military and Veterans Code Section 1306)	−27,000

Provisions:

1. It is the intent of the Legislature that the Franchise Tax Board resolve tax controversies, without litigation, on a basis that is fair to both the state and the taxpayer and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the board.
2. Of the amount appropriated in this item, $50,000 shall be transferred to Item 0155-001-001 for the purpose of conducting a study by the Auditor General to review and evaluate thoroughly the appeals and settlement processes of the State Board of Equalization and the Franchise Tax Board for franchise and income taxes. The study shall include all of the following:
   (a) Evaluate the appeals process from the initial appeal at the Franchise Tax Board or State Board of Equalization through to any appeal reaching the Supreme Court and review a representative number of cases.
   (b) Review the laws, rules, and regulations relevant to the Franchise Tax Board and State Board of Equalization policies of making determinations, of hearing cases, of appealing decisions, and of settling cases.
   (c) Obtain an understanding of the board's methodology for appealing cases.
   (d) Determine the costs and benefits of these decisions to both the particular taxpayers

Item		Amount
involved in the decisions and to all taxpayers in California.		
(e) Evaluate possibilities, costs, and benefits of streamlining and expediting the appeals process, and of establishing special settlement authority.		
The study shall be submitted to the Legislature not later than April 15, 1992.		
3. Of the amount appropriated in this item, $150,000 is provided from programs other than those which impact audit, collection, and other tax processing activities, for the development of a tax burden model that will estimate the distribution of overall state and local tax burdens in California and the impact of tax law changes on these burdens.		
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		28,000
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		25,000
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		32,000
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
1730-301-036—For capital outlay, Franchise Tax Board payable from the Special Account for Capital Outlay		324,000
Schedule:		
(1) 90.01.001-Central Plant—Upgrade Main Chiller and HVAC—Preliminary plans, working drawings and construction	324,000	
1760-001-001—For support of the Department of General Services, for payment to Item 1760-001-666		6,338,000

Item		Amount
Provisions:		
1. In addition to the funds available in this item, any amounts received from the sale of the Governor's Budget and related publications funded from this item are available for expenditure.		
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		895,000
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		4,765,000
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		1,377,000
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		1,006,000
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		3,331,000
Provisions:		
1. Notwithstanding any other provision of law, funds available for the payment of claims are continuously appropriated without regard to fiscal year.		
1760-001-036—For Support of the Department of General Services, for payment to Item 1760-001-666, payable from the Special Account for Capital Outlay		10,491,000
Provisions:		
1. The funds appropriated in this item are for the following:		
(a) Asbestos Abatement Program..	2,412,000	
(b) PCB Program	3,112,000	
(c) Underground Storage Tank Program	4,476,000	
(d) Proactive Assets Management.	491,000	
2. Any proposals to transfer funds between these programs 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 programs for which the transfer is proposed.		

Item	Amount
3. Notwithstanding any other provision of law, the funds appropriated in this item shall not be transferred into the Architecture Revolving Fund.	
4. The funds appropriated in this item are payable to the Service Revolving Fund only for the purposes of facilitating Department of General Services Accounting and shall only be utilized as specified in Provision 1.	
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	12,521,000
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	2,828,000
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	10,668,000
Provisions:	
1. 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.	
2. Of the funds appropriated by this item, $514,000 shall be for the reconciliation of Office of Local Assistance accounting records with the State Controller's Office project balances for various school facility bond acts and Tidelands Oil Revenue funds. Of this amount, $143,000 shall be for two Office of Local Assistance accounting positions, which shall perform only activities related to the reconciliation. The remaining $371,000 shall be for an interdepartmental contract with the Department of Finance, which shall be responsible for providing audit staff to conduct the reconciliation.	
1760-001-397—For support of Department of General Services, for payment to Item 1760-001-666, payable from the California State Police Fund	118,000
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	90,000

Item	Amount
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	1,361,000
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	20,694,000
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.	
2. The Department of General Services may make loans not to exceed a total of $5,000,000 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 1991–92 to be repaid to the Architecture Revolving Fund prior to June 30, 1992. The Service Revolving Fund shall also pay interest to the General Fund pursuant to the provisions of Government Code Section 16314.	
3. None of the funds appropriated in this item are to be used for construction inspection of the California Department of Corrections' California Reception Center in Los Angeles County.	
1760-001-666—For support of Department of General Services, payable from the Service Revolving Fund	394,780,000
Schedule:	
(a) 100000—Personal Services	216,907,000

Item	Amount
(b) 300000—Operating Expenses and Equipment	332,217,000
(c) Distributed services	−71,094,000
(d) Reimbursements-Johns-Manville Settlement	−48,000
(e) Amount payable from the General Fund (Item 1760-001-001)	−6,338,000
(f) Unallocated trigger reduction to General Fund (Item 1760-001-001)	−14,000
(g) Amount payable from the Property Acquisition Law Account, General Fund (Item 1760-001-002)	−895,000
(h) Amount payable from the Motor Vehicle Parking Facilities Moneys Account, General Fund (Item 1760-001-003)	−4,765,000
(i) Amount payable from the Access for Handicapped Account, General Fund (Item 1760-001-006)	−1,377,000
(ix) Amount payable from the Access for Handicapped Account, General Fund (Item 1760-001-006, Budget Act of 1990 as reappropriated)	−64,000
(j) Amount payable from the State Emergency Telephone Number Account, General Fund (Item 1760-001-022)	−1,006,000
(k) Amount payable from the State Motor Vehicle Insurance Account, General Fund (Item 1760-001-026)	−3,331,000
(*l*) Amount payable from the Special Account for Capital Outlay (Item 1760-001-036)	−10,491,000
(m) Amount payable from the School Building Program Account, Architecture Public Building Fund (Item 1760-001-120)	−12,521,000
(mx) Amount payable from the School Building Program Account, Architecture Public Building Fund (Item 1760-001-120, Budget Act of 1990 as reappropriated)	−597,000

Item		Amount
(n)	Amount payable from the School Building Program Account, Architecture Public Building Fund (Chapter 1289, Statutes of 1990) .	−20,000
(o)	Amount payable from the Hospital Plan Checking Account, Architecture Public Building Fund (Item 1760-001-122)	−2,828,000
(ox)	Amount payable from the Hospital Plan Checking Account, Architecture Public Building Fund (Item 1760-001-122, Budget Act of 1990 as reappropriated)	−171,000
(p)	Amount Payable from the Hospital Plan Checking Account, Architecture Public Building Fund (Chapter 1289, Statutes of 1990) .	−20,000
(q)	Amount payable from the State School Lease-Purchase Fund (Item 1760-001-344)	−10,668,000
(r)	Amount payable from the State School Lease-Purchase Fund (Item 1760-011-344)	−306,000
(s)	Amount payable from the California State Police Fund (Item 1760-001-397)	−118,000
(t)	Amount payable from the Seismic Gas Valve Certification Fund (Item 1760-001-450)	−90,000
(u)	Amount payable from the Energy Resources Programs Account, General Fund (Item 1760-001-465)	−1,361,000
(v)	Amount payable from the Architecture Revolving Fund (Item 1760-001-602)	−20,694,000
(w)	Amount payable from the Architectural Examiners Fund (Chapter 1289, Statutes of 1990)	−20,000
(x)	Amount payable from the Contractors License Fund (Chapter 1289, Statutes of 1990)	−20,000
(y)	Amount payable from the State School Building Aid Fund (Item 1760-001-739)	−764,000

Item	Amount
(z) Amount payable from the Earthquake Safety and Public Buildings Rehabilitation Bond Fund of 1990 (Item 1760-001-768)	−1,872,000
(aa) Amount payable from the Professional Engineers and Land Surveyors Fund (Chapter 1289, Statutes of 1990)	−20,000
(ac) Amount payable from the Guaranteed Return Trip Fund (Chapter 1653, Statutes of 1990)	−40,000
(ad) Amount payable from the State School Deferred Maintenance Fund (Item 1760-001-961)	−173,000
(ae) Amount payable from the Architecture Revolving Fund (Item 1760-011-602)	−2,618,000

Provisions:

1. From any balance in the Service Revolving Fund, the Director of General Services, with the approval of the Director of Finance, may expend funds in excess of the amount appropriated in this item for the purchase of office copier machines. Any such amounts authorized by the 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.
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, 1991, after accounting for all receipts and the fiscal year 1990–91 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, 1991.

Item	Amount
5. Of the amount scheduled in this item, up to $48,000 shall be available for support costs to 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.	
6. Notwithstanding provision 4 of Item 1760-001-036 and in the event that revenues are not received in the 1991–92 fiscal year from the Johns-Manville settlement, the Director of Finance is authorized to transfer to this item an amount not to exceed $48,000 from any of the amounts scheduled for asbestos abatement from the Special Account for Capital Outlay in Item 1760-001-036.	
7. Of the amount appropriated in this item, $1,488,000 shall be available for expenditure only upon approval of the Department of Finance in amounts necessary to provide services to client departments that have provided written requests to connect to the State Data Network and have agreed to amortize the cost of the required equipment through the lease of network lines.	
8. The Department of General Services is authorized to collect rent from the tenants of the buildings at 1020 N Street and 1021 O Street in Sacramento. These rents shall be deposited in the Building Rental Account.	
9. Of the amounts appropriated in this item, $2,688,000 shall be available only for maintenance, operations, alterations and repairs of the buildings at 1020 N Street and 1021 O Street in Sacramento. Of this amount, up to $1,400,000 is available for the operations and maintenance of the buildings to the Office of Buildings and Grounds.	
10. Notwithstanding any other provisions of law, revenues from the sale of legislative bills and publications received by the bill room shall be deposited in the Service Revolving Fund.	
11. The Department of General Services shall notify 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	

Item	Amount
Review Committee of its intention to enter into any new lease which exceeds $150,000 rent per month, including improvements, and involves a relocation of more than 250 employees.	
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	764,000
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	1,872,000
Provisions:	
1. Prior to expenditure of the $1,000,000 included in this item for consultant contracts, the office of the State Architect shall report to the Legislature regarding (1) the criteria, developed with the Seismic Safety Commission, by which state buildings in its seismic survey were assessed, (2) the buildings that will be evaluated with these contract funds, and (3) the reasons why these buildings were selected for evaluation.	
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.....	173,000
1760-011-344—For support of Department of General Services, for payment to Item 1760-001-666, payable from the State School Building Lease-Purchase Fund	306,000
Provisions:	
1. Notwithstanding any other provisions of law, the amount appropriated by this item is available for purposes of conducting seismic surveys, including associated administrative costs of the Department of General Services, for agencies eligible for these funds.	
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 ...	2,618,000
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	

Item	Amount
equipment by the Department of General Services and the corresponding expenditure authority has not been provided in this item.	
1760-011-666—For augmentation of the Service Revolving Fund, to be transferred by the State Controller in such amounts and at such times as funds are made available. Upon approval of the State Board of Control, the State Controller shall transfer to this item from any appropriation made from the General Fund, or any special fund, by the provisions of this act that part of such appropriation which is intended to be used and is available, for the purchase or replacement of automobiles and reproduction equipment, and provided, any funds in the Service Revolving Fund may be used to purchase equipment from the General Fund or special funds of the state at the depreciated value at the time of purchase payable at the option of the Service Revolving Fund over the remaining depreciation period.	
1760-021-003—For transfer from the Motor Vehicle Parking Facilities Moneys Account to the General Fund	(1,400,000)
1760-021-006—For transfer from the Access for Handicapped Account to the General Fund	(1,500,000)
1760-021-022—For transfer from the State Emergency Telephone Number Account to the General Fund	(23,400,000)
1760-021-120—For transfer from the School Building Program Account, Architecture Public Building Fund to the General Fund	(6,900,000)
1760-021-122—For transfer from the Hospital Plan Checking Account, Architecture Public Building Fund to the General Fund	(1,800,000)
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 1991–92 to be reverted to the General Fund prior to June 30, 1992	(14,590,000)

Item		Amount
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		367,000
Schedule:		
(1) 50.10.003-Sacramento: Central Plant Upgrade—Working drawings and construction	183,000	
(3) 50.95.000-Minor Projects	184,000	
1760-490—Reappropriation, Department of General Services. Notwithstanding any other provision of law, the following amounts are hereby reappropriated:		
006—Access for Handicapped Account		
(1) Item 1760-001-006, Budget Act of 1990, the balance of unencumbered funds, not to exceed $64,000, to fund the completion of the Building Permit and Certification System.		
120—School Building Program Account, Architecture Public Building Fund		
(1) Item 1760-001-120, Budget Act of 1990, the balance of unencumbered funds, not to exceed $597,000, to fund the completion of the Building Permit and Certification System.		
122—Hospital Plan Checking Account, Architecture Public Building Fund		
(1) Item 1760-001-122, Budget Act of 1990, the balance of unencumbered funds, not to exceed $171,000, to fund the completion of the Building Permit and Certification System.		
1760-495—Reversion, Department of General Services. As of June 30, 1991, 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.		
791—June 1990 Higher Education Capital Outlay Bond Fund		
(1) Item 1760-001-791—Budget Act of 1990		

Item Amount

1760-496—Reversion, Department of General Services. As of June 30, 1991, the unencumbered balance of Item 1760-301-768 (1), Budget Act of 1990, 50.40.019 San Francisco State Office Building (350 McAllister Street), shall revert to the fund balance of the Earthquake Safety and Public Building Rehabilitation Bond Act of 1990.

1880-001-001—For support of State Personnel Board ... 10,639,000

Schedule:

(a) 10-Merit System Administration... 14,997,000
(b) 40-Local Government Services.... 969,000
(c) 50.01-Administrative Services..... 4,511,000
(d) 50.02-Distributed Administrative Services..... −4,124,000
(e) Unallocated trigger reduction..... −218,000
(f) Reimbursements..... −5,496,000

Provisions:

1. Notwithstanding any other provision of law, the State Personnel Board is authorized to bill departments for up to $235,000 of its costs to provide appeals processing services in 1991–92 in the Hearing Office. The billings may be based on the affected departments' proportionate use of these services in the past year. The timing and manner of these payments shall be determined by the board, consistent with the needs of the Hearing Office.
2. Notwithstanding any other provision of law, the State Personnel Board is authorized to bill departments for up to $50,000 of its operating expense costs associated with travel to areas outside of Sacramento to provide appeals processing services in 1991–92 in the Appeals Section. The billings shall be based on the affected departments' proportionate use of these services. The timing and manner of these payments shall be determined by the board, consistent with the actual costs incurred.

1900-001-001—For support of Board of Administration of the Public Employees' Retirement System, for payment to Item 1900-001-830..... 27,000

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..... 289,000

Provisions:

1. The appropriation made by this item is for sup-

Item		Amount
port 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		184,000
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.		48,648,000
Schedule:		
(a) 10-Retirement	42,696,000	
(b) 20-Social Security	344,000	
(c) 30-Health Benefits	6,490,000	
(d) 40-Investment Operations	6,833,000	
(e) 50.01-Administration	23,943,000	
(f) 50.02-Distributed Administration	−23,943,000	
(g) Reimbursements	−768,000	
(h) Amount payable from the General Fund (Item 1900-001-001)	−27,000	
(i) Amount payable from the Judges' Retirement Fund (Item 1900-001-815)	−289,000	
(j) Amount payable from the Legislators' Retirement Fund (Item 1900-001-820)	−184,000	
(k) Amount payable from the Public Employees' Contingency Reserve Fund (Item 1900-001-950)	−6,371,000	
(*l*) Amount payable from the Volunteer Firefighters Length of Service Award System Fund (Item 1900-001-962)	−76,000	
Provisions:		
1. $90,000 of the amount appropriated in this item shall be expended for relocation of the area and field offices in southern California only upon the prior approval of the Department of General Services.		

Item		Amount
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....		6,371,000
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.....		76,000
1920-001-835—For support of State Teachers' Retirement System, payable from the State Teachers' Retirement Fund.....		27,914,000
Schedule:		
(a) 100000-Personal Services.....	17,117,000	
(b) 300000-Operating Expenses and Equipment.....	11,199,000	
(c) Reimbursements.....	−239,000	
(d) Amount payable from the Teacher Tax Sheltered Annuity Fund (Item 1920-001-963).....	−66,000	
(e) Amount payable from the Retirees' Purchasing Power Protection Account in the State Teachers' Retirement Fund pursuant to Section 24701 of the Education Code.....	−97,000	
1920-001-963—For support of State Teachers' Retirement System, for 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, State Teachers' Retirement System. As of June 30, 1991, 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 1004, Statutes of 1989.....	42,750	
1960-001-001—For support of Department of Veterans Affairs.....		2,606,000

Item		Amount
	Schedule:	
	(a) 10-Farm and Home Loans to Veterans	1,132,000
	(b) 20-Veterans Claims and Rights	2,100,000
	(c) 30-Care of Sick and Disabled Veterans	799,000
	(d) 50.01-General Administration	1,994,000
	(e) 50.02-Distributed General Administration	−1,994,000
	(f) Unallocated trigger reduction	−59,000
	(g) Reimbursements	−234,000
	(h) Amount payable from the Veterans' Farm and Home Building Fund of 1943 (Item 1960-001-592)	−1,132,000
	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,	

Item Amount

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.

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 1,132,000

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..... 1,680,000

Schedule:

(a) 20-Veterans Claims and Rights 2,311,000
(b) Trigger reduction ..... −70,000
(c) Reimbursements ..... −561,000

1970-011-001—For support of Veterans' Home of California 28,056,000

Schedule:

(a) 30-Care of Sick and Disabled Veterans 48,454,000
(b) Trigger reduction ..... −433,000
(c) Reimbursements ..... −7,874,000
(d) Amount payable from the Federal Trust Fund (Item 1970-011-890) .. −11,849,000
(e) Amount payable from Special Account for Capital Outlay (Item 1970-011-036) ..... −242,000

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 Fi-

Item			Amount
nance. Provisions 2, 3, and 4 of Item 9840-011-001 shall also apply to any loan authorized pursuant to this item.			
1970-011-036—For support of Veterans Home of California, for payment to Item 1970-011-001, payable from the Special Account for Capital Outlay			242,000
1970-011-890—For support of Veterans' Home of California, for payment to Item 1970-011-001, payable from the Federal Trust Fund			11,849,000
1970-301-036—For capital outlay, Veterans' Home of California, Department of Veterans Affairs, payable from the Special Account for Capital Outlay			1,972,000
Schedule:			
(1) 80.20.045—Minor Projects		272,000	
(2) 80.20.105—Correct Code Deficiencies in Section J—Working drawings		105,000	
(3) 80.20.165—Remodel Section G—Preliminary plans		165,000	
(5) 80.20.210—Program Management		275,000	
(6) 80.20.230—Remodel Sections H and K—Additional working drawings and construction		1,155,000	
1970-301-890—For capital outlay, Veterans' Home of California, Department of Veterans Affairs, payable from the Federal Trust Fund			2,624,000
Schedule:			
(1) 80.20.230—Remodel Sections H and K—Additional Working drawings and construction		2,624,000	
BUSINESS, TRANSPORTATION AND HOUSING			
2100-001-001—For support of Department of Alcoholic Beverage Control			23,052,000
Schedule:			
(a) 10.10-Licensing		13,528,000	
(b) 10.20-Compliance		10,943,000	
(c) 10.30.010-Administration		2,734,000	
(d) 10.30.020-Distributed Administration		−2,734,000	
(e) Unallocated trigger reduction		−583,000	
(f) Reimbursements		−836,000	
2120-001-117—For support of Alcoholic Beverage Control Appeals Board, Program 10, payable from the Alcoholic Beverage Control Appeals Fund			535,000

Item		Amount
2140-001-136—For support of State Banking Department, payable from the State Banking Fund.....		15,040,000
Schedule:		
(a) 10-Licensing and Supervision of Banks and Trust Companies.....	14,487,000	
(b) 20-Payment Instruments.....	664,000	
(c) 30-Certification of Securities.....	12,000	
(d) 40-Administration of Local Agency Security.....	262,000	
(e) 50-Supervision of California Business and Industrial Development Corporations	36,000	
(f) 60.01-Administrative Support Services.....	4,666,000	
(g) 60.02-Distributed Administrative Support Services	−4,666,000	
(h) Reimbursements.....	−159,000	
(i) Amount payable from the Local Agency Deposit Security Fund (Item 2140-001-240)	−262,000	
2140-001-240—For support of State Banking Department, for payment to Item 2140-001-136, payable from the Local Agency Deposit Security Fund		262,000
2180-001-001—For support of Department of Corporations.....		10,476,000
Schedule:		
(a) 10-Investment Program	11,210,000	
(b) 20-Lender-Fiduciary Program	10,414,000	
(c) 30-Health Care Service Plan Program	4,742,000	
(d) 50.01-Administration.....	1,256,000	
(e) 50.02-Distributed Administration .	−1,256,000	
(f) Reimbursements.....	−15,363,000	
(g) Unallocated trigger reduction.....	−212,000	
(h) Amount payable from Commodity Merchants Account (Item 2180-001-323)	−315,000	
2180-001-323—For support of the Department of Corporations for payment to Item 2180-001-001, payable from the Commodity Merchants Account.....		315,000
2200-001-001—For support of Department of Commerce		13,348,000
Schedule:		
(a) 10-Business Development	3,527,000	
(b) 15-California Film Commission....	827,000	
(c) 20-Competitive Technology	600,000	

Item		Amount
(d) 25-Marketing and Communications	504,000	
(e) 30-Tourism	4,500,000	
(f) 40-Local Development	1,653,000	
(g) 50-Small Business	1,824,000	
(h) 60-Economic Research	851,000	
(i) 70.01-Administration	2,749,000	
(j) 70.02-Distributed Administration	−2,749,000	
(k) Unallocated trigger reduction	−200,000	
(k*l*) Unallocated Travel Reduction	−44,000	
(*l*) Reimbursements	−694,000	

Provisions:

1. On or before June 30, 1991, the Executive Director of the Office of Small Business shall return all unencumbered earthquake loan guarantee funds authorized by Chapters 11 and 12, Statutes of 1989, First Extraordinary Session, to the Small Business Expansion Fund.
2. The Department of Commerce shall report quarterly to the Joint Legislative Budget Committee and the chairs of the fiscal committees in each house, beginning on July 15, 1991, regarding its contracting procedures, including to whom contracts are awarded; to whom commissions are paid; delegation of bid authority; bid procedures used; advertising processes used; contracts awarded sole source vs. through the competitive bid process; compliance with contracting goals for women-owned, minority-owned, and disabled veteran-owned businesses; and contracts for legal services (other than through the Attorney General's Office).

2200-001-440—For support of Department of Commerce, Program 50, Small Business, payable from the Petroleum Underground Storage Tank Financing Account 150,000

2200-001-890—For support, Department of Commerce, payable from the Federal Trust Fund 102,000

Schedule:

(a) 40-Local Development	10,000	
(b) 50-Small Business (Small Business Development Centers)	92,000	

2200-041-001—For support of exempt positions funded from the General Fund in the Department of Commerce 1,453,000

2200-101-001—For local assistance, Department of Commerce 3,960,000

Item		Amount
Schedule:		
(a) 50-Small Business (Small Business Development Centers)	1,000,000	
(b) For transfer to the Competitive Technology Fund	3,000,000	
(c) Unallocated trigger reduction	−40,000	
2200-101-123—For transfer by the Controller, as of June 30, 1991, from the Rural Economic Development Fund to the Disaster Relief Fund		(536,048)
2200-101-147—For local assistance, Department of Commerce. For the purpose of the Defense Industry Conversion Local Assistance Program, pursuant to Article 3.6 (commencing with Section 15346) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code		1,000,000
Schedule:		
(a) 40-Local Development	1,000,000	
Provisions:		
1. Funds appropriated by this item may be transferred to Item 2200-001-147 for support of the Defense Industry Conversion Local Assistance Program consistent with Section 15346.2 of the Government Code.		
2200-101-439—For local assistance, Department of Commerce, payable from the Underground Storage Tank Cleanup Fund		4,000,000
2200-101-890—For local assistance, Department of Commerce, 50-Small Business (Small Business Development Centers), payable from the Federal Trust Fund		3,931,000
2200-101-922—For local assistance, Department of Commerce, payable from the California Economic Development Grant and Loan Fund		810,000
Schedule:		
(a) 40-Local Development	810,000	
(b) 50-Small Business	210,000	
(c) Reimbursements	−210,000	
2200-495—Reversion, Department of Commerce. As of June 30, 1991, the following amounts shall revert to the General Fund:		
(1) $2,500,000 from the Rural Economic Development Fund.		
(2) $3,200,000 from the Competitive Technology Fund.		
As of June 30, 1991, the unencumbered balance of the appropriation provided in the following citation shall revert to the Disaster Relief Fund:		

Item		Amount
(1) Chapters 11 and 12, Statutes of 1989, First Extraordinary Session—Small Business Expansion Fund.		
2225-001-147—For transfer by the Controller, as of June 30, 1992, from the California Unitary Fund to the General Fund, the amount of unappropriated election fee revenue		(26,600,000)
2225-002-147—The sum of $300,000 is appropriated for expenditure in 1991–92 when reappropriated by the Legislature to provide the state's contribution toward the 1992 World's Fair		(300,000)
2240-001-001—For support of Department of Housing and Community Development		6,552,000
Schedule:		
(a) 10-Codes and Standards Program	20,828,000	
(b) 20-Community Affairs Program	14,869,000	
(c) 30-Housing Policy Development Program	1,618,000	
(d) 50.01-Administration	10,869,000	
(e) 50.02-Distributed Administration	−10,869,000	
(f) Unallocated trigger reduction	−160,000	
(g) Reimbursements	−6,723,000	
(h) Amount payable from the Mobilehome Park Revolving Fund (Item 2240-001-245)	−4,232,000	
(i) Amount payable from the Manufactured Home License Fee Account, General Fund (Item 2240-001-451)	−2,183,000	
(j) Amount payable from the Mobilehome Park Purchase Fund (Item 2240-001-530)	−389,000	
(k) Amount payable from the Rural Predevelopment Loan Fund (Item 2240-001-635)	−228,000	
(*l*) Amount payable from the Mobilehome-Manufactured Home Revolving Fund (Item 2240-001-648)	−12,551,000	
(m) Amount payable from the Self-Help Housing Fund (Item 2240-001-813)	−232,000	
(n) Amount payable from the Federal Trust Fund (Item 2240-001-890)	−1,796,000	
(o) Amount payable from the Housing Rehabilitation Loan Fund (Item 2240-001-929)	−766,000	

Item		Amount
(p) Amount payable from the Homeownership Assistance Fund (Item 2240-001-936)	−265,000	
(q) Amount payable from the Rental Housing Construction Fund (Item 2240-001-938)	−794,000	
(r) Amount payable from the Urban Predevelopment Loan Fund (Item 2240-001-980)	−274,000	
(s) Amount payable from the Emergency Housing and Assistance Fund (Item 2240-001-985)	−170,000	
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		4,232,000
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		2,183,000
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		389,000
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		228,000
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		12,551,000
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		232,000
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		1,796,000
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		766,000

Item	Amount
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	265,000
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	794,000
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	274,000
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	170,000
2240-011-972—For transfer by the Controller from the Mobilehome Park Recovery Fund to the General Fund	(1,000,000)
2240-101-001—For local assistance, Department of Housing and Community Development	4,224,000
Schedule:	
(a) 20-Community Affairs ... 75,900,000	
(b) Trigger reduction ... −176,000	
(c) Amount payable from the Federal Trust Fund (Item 2240-101-890) ... −71,500,000	
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 Emergency Housing and Assistance Fund (985) ... (2,000,000)	
(b) For transfer to the Special Deposit Fund—Office of Migrant Services (942) ... (1,000,000)	
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	71,500,000
2240-102-001—For local assistance, Department of Housing and Community Development, for transfer to the California Disaster Housing Rehabilitation Fund for the purpose of assisting victims of the 1989 Loma Prieta earthquake	33,100,000
Provisions:	
1. Notwithstanding Sections 50661.5, 50662.7, and	

Item		Amount
50671.5 of the Health and Safety Code, applications for assistance under this item shall not be accepted after August 1, 1991.		
2240-103-001—For local assistance, Department of Housing and Community Development, for transfer to the California Disaster Housing Rehabilitation Fund for the purpose of assisting victims of natural disasters		4,200,000
2240-495—Reversion, Department of Housing and Community Development. As of June 30, 1991, 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) Chapter 6, Statutes of 1989, First Extraordinary Session, Section 7(a) (2) (D).		
2290-001-217—For support of Department of Insurance, payable from the Insurance Fund		70,695,000
Schedule:		
(a) 10-Regulation of Insurance Companies and Insurance Producers..	65,756,000	
(b) 20-Fraud Control	4,270,000	
(c) 30-Tax Collection and Audit	744,000	
(d) 40-Earthquake Recovery Fund Management	15,659,000	
(e) 50.01-Administration	21,815,000	
(f) 50.02-Distributed Administration	−21,815,000	
(g) Amount payable from Insurance Fund (Item 2290-002-217)	−75,000	
(h) Amount payable from the California Residential Earthquake Insurance Recovery Fund (Item 2290-001-285)	−15,659,000	
Provisions:		
1. Of the funds appropriated in this item, $2,901,000 shall be transferred to the Department of Aging for support of the Health Insurance Counseling and Advocacy Program.		
2. Of the amount appropriated under this item, $14,605,000 shall be available for transfer to Item 2290-001-285 as a loan to the California Residential Earthquake Recovery Fund for the administration of the Earthquake Insurance Program, notwithstanding any other provision of law. This amount is to be transferred in equal monthly installments during the 1991–92 fiscal year, only as		

Item	Amount
needed by the program. The loan shall be repaid in full, with interest at the Pooled Money Investment Account rate, as soon as sufficient revenues are available in the California Residential Earthquake Recovery Fund, but no later than two years from the date the loan is made.	
3. Of the funds appropriated in this item, $451,000 shall be transferred as of July 1, 1991, to the State and Consumer Services Agency for support of the Office of Insurance Advisor, to provide assistance to the Governor on insurance related matters.	
2290-001-285—For support of the Department of Insurance, for payment to Item 2290-001-217, payable from the California Residential Earthquake Recovery Fund	15,659,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may approve augmentations to this item for support of the California Residential Earthquake Recovery Program as required in the event of an earthquake. Any augmentations shall be limited to the funds available in the California Residential Earthquake Recovery Fund. The Director of Finance shall notify, in writing, the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations of any augmentations, no later than 10 days after the effective date of the authorization. All notices shall state the reason for, and the amount of, the augmentation.	
2. Of the amount appropriated in this item, $185,000 shall be available for encumbrance by the Department of Insurance for EDP support positions for Fund Analysis, Bond, and Reinsurance Management. This amount shall be available only upon approval of a feasibility study report by the Department of Finance.	
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

Item		Amount
2310-001-400—For support of The Office of Real Estate Appraisers payable from the Real Estate Appraisers Regulatory Fund		1,203,000
Provisions:		
1. The Office of Real Estate Appraisers shall be limited to a single facility location for its staff and operations.		
2320-001-317—For support of Department of Real Estate, payable from the Real Estate Fund		33,859,000
Schedule:		
(a) 10-Licensing and Education	12,266,000	
(b) 20-Regulatory and Recovery	17,210,000	
(c) 30-Subdivisions	5,258,000	
(d) 40.10-Administration	4,727,000	
(e) 40.20-Distributed Administration	−4,727,000	
(f) Reimbursements	−875,000	
Provisions:		
1. Of the amount appropriated in this item, $4,500,000 shall be expended for the following purposes: (A) $2,000,000 as a partial endowment to expand education and research activities at the Real Estate Centers located on the campuses of the University of California at Berkeley and Los Angeles; and (B) $2,500,000 to provide financial assistance to minority and financially disadvantaged students studying real estate at the University of California, the California State University and the California Community Colleges (CC); according to the following schedule:		
(a) UC Berkeley Real Estate Center	1,000,000	
(b) UC Los Angeles Real Estate Center	1,000,000	
(c) UC: Assistance for Minority and Financially Disadvantaged Students	1,000,000	
(d) CSU: Assistance for Minority and Financially Disadvantaged Students	1,000,000	
(e) CC: Assistance for Minority and Financially Disadvantaged Students	500,000	
2320-495—Reversion, Department of Real Estate. As of June 30, 1991, 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.		

Item		Amount
317—Real Estate Fund		
(1) Chapter 969, Statutes of 1989		
2340-001-337—For support of Department of Savings and Loan, payable from the Savings Association Special Regulatory Fund		4,196,000
Schedule:		
(a) 100000-Personal Services	3,049,000	
(b) 300000-Operating Expenses and Equipment	1,169,000	
(c) Reimbursements	−22,000	
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		150,000
2600-001-046—For support of California Transportation Commission, payable from the Transportation Planning and Development Account, State Transportation Fund		1,251,000
Schedule:		
(a) 10-Administration of California Transportation Commission	1,401,000	
(b) Amount payable from the State Highway Account, State Transportation Fund (Item 2600-001-042)	−150,000	
2600-125-183—For local assistance, California Transportation Commission, Program 20-Environmental Enhancement and Mitigation, payable from the Environmental Enhancement and Mitigation Demonstration Program Fund		9,880,000
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		57,413,000
Provisions:		
1. Notwithstanding Sections 99313 and 99314 of the Public Utilities Code, not more than $22,000 of the amount appropriated by this item shall fund the federal match requirement of the Transit Management Assistance program, and not more than $55,000 of the amount appropriated by this item shall reimburse the Controller for expenditures for administration of State Transportation Assistance funds.		

Item			Amount
2660-001-001—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the General Fund			11,799,000
2660-001-041—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the Aeronautics Account, State Transportation Fund			3,135,000
2660-001-042—For support of Department of Transportation, payable from the State Highway Account, State Transportation Fund			1,101,437,000
Schedule:			
(a) 10-Aeronautics		4,032,000	
(b) 20-Highway Transportation		1,704,886,000	
(1) 20.10.101-Flexible Congestion Relief		(174,243,000)	
(2) 20.10.102-Interregional Road System		(42,076,000)	
(3) 20.10.103-Soundwalls		(13,798,000)	
(4) 20.10.204-Other Highway Construction		(6,619,000)	
(5) 20.10.205-Rehabilitation and Safety		(101,679,000)	
(6) 20.10.300-Traffic Systems Management		(9,368,000)	
(7) 20.10.400-State Support for Locally Funded Projects		(140,482,000)	
(8) 20.30-Local assistance		(13,216,000)	
(9) 20.40-Program development		(17,355,000)	
(10) 20.60-Administration		(225,802,000)	
(11) 20.70-Operations		(80,589,000)	
(12) 20.80-Maintenance		(531,276,000)	
(13) Bicycle Lane Account		(10,000)	

Item		Amount
	(14) Federal Trust Fund ..... (271,594,000)	
	(15) Reimbursements ..... (64,980,000)	
	(16) General Fund.. (11,799,000)	
(c)	30-Mass Transportation	98,098,000
(d)	40-Transportation Planning	16,549,000
(e)	50.01-Administration	218,252,000
(f)	50.02-Distributed Administration.....	−218,252,000
(g)	Reimbursements.....	−82,155,000
(h)	Amount payable from the Aeronautics Account, State Transportation Fund (Item 2660-001-041) .	−3,135,000
(i)	Amount payable from the State Highway Account, State Transportation Fund (Item 2660-025-042).....	−258,842,000
(j)	Amount payable from the Bicycle Lane Account, State Transportation Fund (Item 2660-001-045)	−10,000
(k)	Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-001-046)	−51,203,000
(*l*)	Amount payable from the Federal Trust Fund (Item 2660-001-890).....	−314,984,000
(m)	Amount payable from the General Fund (Item 2660-001-001)	−11,799,000

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, Item 2660-301-042, Item 2660-025-042, Item 2660-125-042 or Item 2660-325-042 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. Upon approval of the California Transportation Commission and the Department of Finance, the department shall notify the chairpersons of

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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.

3. 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 1991. 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 1991–92 budget if the local sales tax measure is not approved by the voters in November 1991. 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 1991, 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.

Measure	Personnel-Years	Funding
Sutter & Yuba	3.9	$283,000
San Luis Obispo	2.5	186,000
Kern	20.5	1,695,000
Stanislaus	4.0	290,000

4. Of the amount appropriated in this item, $5 million for advanced highway technology research and development shall not be expended until af-

Item	Amount
ter January 1, 1992 in accordance with statute. 5. Notwithstanding any other provision of law, the state match for seismic retrofit projects on state bridges which are ready for award in 1991–92, but for which appropriations from the SSRA are not adequate to fund, shall be funded from the State Highway Account capital outlay appropriation as a first priority.	
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.....	51,203,000
Provisions: 1. For Program 30—Mass Transportation. $19,063,000 of the funds appropriated in this item shall be allocated, as directed by the California Transportation Commission, pursuant to Section 99316 of the Public Utilities Code. 2. For Program 30—Mass Transportation. Notwithstanding Section 14037 of the Government Code, $3,463,000 of the amount available in this item may be used only for operating costs on expanded intercity rail service. 3. For Program 30—Mass Transportation. $100,000 of the funds appropriated in this item shall be available for a rail passenger feasibility study for the Gilroy-Monterey portion of the San Francisco-Monterey rail corridor.	
2660-001-890—For support of Department of Transportation, for payment to Item 2660-001-042, payable from the Federal Trust Fund	314,984,000
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.	

Item	Amount
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.	
4. For Program 30—Mass Transportation. Of the amount available in this item, $8,500,000 may be used only for rideshare marketing which advertises actual rideshare alternatives in specific corridors.	
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)
2660-021-041—For transfer by the State Controller from the Aeronautics Account, State Transportation Fund, to the General Fund	(200,000)
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	(16,395,000)
2660-022-042—For transfer by the State Controller from the State Highway Account, State Transportation Fund, to the Environmental Enhancement and Mitigation Demonstration Account, State Transportation Fund, as prescribed by Chapter 106, Statutes of 1989	(10,000,000)
2660-023-042—Notwithstanding any other provision of law, there is hereby appropriated for transfer from the State Highway Account, State Transportation Fund to the General Fund an amount necessary, up to $56 million, as determined by the State Controller, to pay the principal and interest on bonds sold pursuant to the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 commencing with Section 2701 of the Streets and Highways Code), and the Clean Air and Transportation Improve-	

Item		Amount
ment Act of 1990 (Chapter 6 commencing with Section 99690, Part 11.5, Division 10 of the Public Utilities Code). It is the intent of the Legislature that this transfer be a loan from the State Highway Account, State Transportation Fund to the General Fund and that such loan be repaid pursuant to Section 6, Article 19 of the California Constitution.		
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		258,842,000
Provisions:		
1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of any of the amounts scheduled within Item 2660-025-042 may be transferred to Item 2660-101-042, Item 2660-301-042, Item 2660-001-042, Item 2660-125-042 or Item 2660-325-042, 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. Funds appropriated in this item shall be available for Advances to the Transportation Revolving Account, State Transportation Fund as prescribed by Streets and Highway Codes Section 181.		
2660-031-047—Notwithstanding any other provision of law, the reserve balance as of June 30, 1991 in the Abandoned Railroad Account, State Transportation Fund, or the portion thereof as specified in this item, shall be transferred by the State Controller from the Abandoned Railroad Account, State Transportation Fund, to the Transportation Planning and Development Account, State Transportation Fund		(130,000)
2660-101-042—For local assistance, Department of Transportation, payable from the State Highway Account, State Transportation Fund		35,100,000
Schedule:		
(a) 20-Highway Transportation	35,100,000	
(b) 30-Mass Transportation	64,000,000	
(c) Amount payable from State Highway Account (Item 2660-125-042)	-64,000,000	

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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, Item 2660-301-042, Item 2660-025-042, Item 2660-125-042 or Item 2660-325-042 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. Funds appropriated in this item for Article XIX, Transit Guideways shall be available for expenditures or reallocation, as directed by the California Transportation Commission, during the 1991–92, 1992–93 and 1993–94 fiscal year.

2660-101-045—For local assistance, Department of Transportation, Program 20—Highway Transportation, payable from the Bicycle Lane Account, State Transportation Fund 530,000

2660-101-046—For local assistance, Department of Transportation, payable from the Transportation Planning and Development Account, State Transportation Fund 18,339,000

Schedule:

(a) 30-Mass Transportation 51,407,000
(b) 40-Transportation Planning 4,032,000
(c) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-125-046) ....—37,100,000

Provisions:

1. For Program 30—Mass Transportation. Funds appropriated in this item for Transit Capital Improvements shall be available for expenditure or reallocation, as directed by the California Transportation Commission, during the 1991–92, 1992–93 and 1993–94 fiscal year.

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

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project funds by the California Transportation Commission. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance. These transfers of funds shall be available for expenditures during the 1991–92, 1992–93 and 1993–94 fiscal year.

2660-101-890—For local assistance, Department of Transportation, payable from the Federal Trust Fund 257,984,000

Schedule:

(a) 20-Highway Transportation 234,500,000
(b) 30-Mass Transportation 14,584,000
(c) 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.

2660-125-042—For local assistance, Department of Transportation (Proposition 111), for payment to Item 2660-101-042, payable from the State Highway Account, State Transportation Fund 64,000,000

Provisions:

2. Funds appropriated in this item shall be available for advances to the Transportation Revolving Account, State Transportation Fund as prescribed by Streets and Highway Codes Section 181.

Item		Amount
3. Provision 2 for Item 2660-101-042 is also applicable to this item.		
2660-125-046—For local assistance, Department of Transportation (Proposition 111), for payment to Item 2660-101-046, payable from the Transportation Planning and Development Account, State Transportation Fund		37,100,000
Provisions:		
1. The provision for Item 2660-101-046 is also applicable to this item.		
2660-301-001—For capital outlay, Department of Transportation, Program 20 Highway Transportation, payable from the General Fund		33,000,000
2660-301-042—For capital outlay, Department of Transportation, payable from the State Highway Account, State Transportation Fund		0
Schedule:		
(a) 20-Highway Transportation	1,646,499,000	
(1) 20.20.101 Flexible Congestion Relief	(821,188,000)	
(2) 20.20.102 Interregional Road System	(84,946,000)	
(3) 20.20.103 Soundwalls	(27,839,000)	
(4) 20.20.204 Other Highway Construction	(51,891,000)	
(5) 20.20.205 Rehabilitation and Safety	(376,722,000)	
(6) 20.20.300 Traffic Systems Management	(83,913,000)	
(7) 20.25 State-Local Partnership	(200,000,000)	
(b) Reimbursements	−995,586,000	
(c) Amount payable from the State Highway Account, State Transportation Fund (Item 2660-325-042)	−650,913,000	
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, Item 2660-101-042, Item 2660-025-042, Item 2660-125-042 or Item 2660-325-042 of this act only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.		

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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 com mission 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, 1991, the department shall submit to the Controller the estimated amounts to be reverted as of June 30, 1991, from the 1989–90 and 1990–91 fiscal year appropriations.
4. 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 or Item 2660-125-042 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. These transfers of funds shall be available for expenditures during the 1991–92, 1992–93 and 1993–94 fiscal year.
5. 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.
6. Notwithstanding any other provision of law, expenditures funded by this appropriation may

Item		Amount
utilize the funding provisions of AB 981 and SB 460 of the 1991–92 Regular Session, upon enactment of both bills.		
2660-301-046—For capital outlay, Department of Transportation, payable from the Transportation Planning and Development Account, State Transportation Fund		0
Schedule:		
(a) 30-Mass Transportation	91,250,000	
(b) Reimbursements	−91,250,000	
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		329,777,000
Provisions:		
1. Notwithstanding other provisions of law, any amounts scheduled within this item may be transferred to Item 2660-101-756. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance. These tranfers of funds shall be available for expenditure during the 1991–92, 1992–93 and 1993–94 fiscal year.		
2660-301-890—For capital outlay, Department of Transportation, payable from the Federal Trust Fund		754,764,000
Schedule:		
(a) 20-Highway Transportation	719,702,000	
(b) 30-Mass Transportation	35,062,000	
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. Provisions 2, 3 and 5 for Item 2660-301-042 are also applicable to this item.		
3. For Program 20—Highway Transportation. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.		

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4. For Program 20—Highway Transportation. Federal funds 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.
5. For Program 20—Highway Transportation. Notwithstanding other provisions of law, any amounts schedule for Flexible Congestion Relief projects and for Traffic Systems Management projects may be transferred to Item 2660-101-890 for local transportation projects pursuant to the allocation of projects funds by the California Transportation Commission. These transfers shall require the prior approval of the California Transportation Commission and Department of Finance. These transfers of funds shall be available for expenditures during 1991–92, 1992–93 and 1993–94 fiscal years.
6. Notwithstanding any other provision of law, expenditures funded by this appropriation may utilize the funding provisions of AB 981 and SB 460 of the 1991–92 Regular Session, upon enactment of both bills.

2660-311-042—For capital outlay, Department of Transportation, payable from the State Highway Account, State Transportation Fund 1,164,000

Schedule:

(1) 20.20.205.001—Redding District Office, fire and Life Safety Compliance—Construction.....	513,000
(2) 20.20.205.002—San Luis Obispo District Office, Fire and Life Safety Compliance—Construction	319,000
(3) 20.20.205.099—Minor Projects.....	332,000

Provisions:

1. For Program 20—Highway Transportation. Savings on projects within this item may be used by the California Transportation Commission to augment other projects within this item.
2. For Program 20—Highway Transportation. Up to 20 percent of this item may be transferred from item 2660-325-042 of this act to enable the California Transportation Commission to allocate supplemental funds to projects within this item. The transfer may only be made with the approval of the Commission. Also, the Depart-

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	ment of Finance shall be notified of the transfer prior to the Commission approving any transfer and allocating such funds to any project.	
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		650,913,000
	Provisions:	
	1. For Program 20—Highway Transportation. Notwithstanding other provisions of law, up to 10 percent of the amounts scheduled within Item 2660-325-042 may be transferred to Item 2660-001-042, Item 2660-101-042, Item 2660-025-042, Item 2660-125-042 or Item 2660-301-042 of this act only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.	
	2. Funds appropriated in this item shall be available for advances to the Transportation Revolving Account, State Transportation Fund as prescribed by Streets and Highway Codes Section 181.	
	3. Provision 4 for Item 2660-301-042 is also applicable to this item.	
	4. Notwithstanding any other provision of law, expenditures funded by this appropriation may utilize the funding provisions of AB 981 and SB 460 of the 1991–92 of the Regular Session, upon enactment of both bills.	
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. Funds appropriated in this item shall be available for expenditure until June 30, 1992		5,000,000
	Provisions:	
	1. Notwithstanding other provisions of law, the Director of Finance may authorize amounts from funds 041 and 046 for the same purposes as provided in this item. The total amount to be expended for the purposes of this item shall not exceed $5,000,000 in total from the three specified funds.	

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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, 1992. 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 1986—$2,000,000

(2) Item 2660-301-042, Budget Act of 1987—$10,000,000

(3) Item 2660-301-042, Budget Act of 1988—$10,000,000

890—For Program 20—Highway Transportation, payable from the Federal Trust Fund

(1) Item 2660-301-890, Budget Act of 1986—$10,000,000

(2) Item 2660-301-890, Budget Act of 1987—$10,000,000

(3) Item 2660-301-890, Budget Act of 1988—$10,000,000

2660-491—Reappropriation—Department of Transportation, Program 20—Highway Transportation and Program 30—Mass 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 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 1990

045—Bicycle Lane Account

(1) Item 2660-101-045, Budget Act of 1990

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046—Transportation Planning and Development Account

(1) Item 2660-101-046, Budget Act of 1986

2660-492—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the unencumbered and unliquidated balances, as of June 30, 1991, 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, 1992, except as otherwise specified:

046—Transportation Planning and Development Account

(2) Item 2660-301-046, Budget Act of 1986

429—Local Jurisdiction Energy Assistance Account

(1) Chapter 1343, Statutes of 1986

042—State Highway Account

(1) Chapter 1472, Statutes of 1988

2660-493—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the unencumbered and unliquidated balances, as of June 30, 1991, of the appropriations in the following citations, are reappropriated for Transit Guideways, State-Local Transportation Partnership and Traffic Systems Management Projects. Specifically, any reappropriated amount under the State-Local Transportation Partnership Program not needed to fully fund projects eligible for state match in the 1990–91 program cycle, shall be available to fund projects eligible for state match in the 1991–92 cycle. These appropriations shall be available until June 30, 1993.

042—State Highway Account

(1) Item 2660-101-042, Budget Act of 1990

(2) Item 2660-125-042, Budget Act of 1990

890—Federal Trust Fund

(1) Item 2660-101-890, Budget Act of 1990

2660-494—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the appropriations in the following citations are reappropriated to enable the collection of outstanding federal reimbursements as of the end of June 30, 1991. These appropriations shall be available until June 30, 1992:

Item	Amount
042—State Highway Account	
(1) Section 183, Local Assistance	
(2) Item 2660-301-042, Budget Act of 1979	
(3) Item 2660-301-042, Budget Act of 1981	
(4) Item 2660-301-042, Budget Act of 1982	
(5) Item 2660-301-042, Budget Act of 1983	
890—Federal Trust Fund	
(1) Item 2660-101-890, Budget Act of 1984	
(2) Item 2660-001-890, Budget Act of 1985	
(3) Item 2660-101-890, Budget Act of 1985	
(4) Item 2660-001-890, Budget Act of 1986	
2660-495—Reappropriation—Department of Transportation. Notwithstanding any other provision of law, the unencumbered and unliquidated balances, as of June 30, 1991, of the appropriations in the following citations, are reappropriated for the purposes provided for in those appropriations and shall be available until June 30, 1993.	
756—Passenger Rail and Clean Air Bond Fund of 1990.	
(1) Item 2660-101-756, Budget Act of 1990	
2700-001-044—For support of Office of Traffic Safety, payable from the Motor Vehicle Account, State Transportation Fund	320,000
Schedule:	
(a) 10-California Traffic Safety 7,471,000	
(b) Reimbursements..... −20,000	
(c) Amount payable from the Federal Trust Fund (Item 2700-001-890) .. −7,131,000	
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	7,131,000
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

Item		Amount
2720-001-044—For support of Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund		607,477,000
Schedule:		
(a) 10-Traffic Management	557,830,797	
(b) 20-Regulation and Inspection	54,470,165	
(c) 30-Vehicle Ownership Security	12,814,054	
(d) 40.01-Administration	126,878,984	
(e) 40.02-Distributed Administration	−126,689,000	
(f) Reimbursements	−11,133,000	
(g) Amount payable from the California Motorcyclist Safety Fund (Item 2720-001-840)	−1,726,000	
(h) Amount payable from the Asset Forfeiture Fund (Item 2720-001-847)	−2,165,000	
(i) Amount payable from the Federal Trust Fund (Item 2720-001-890)	−2,804,000	
Provisions:		
1. Pursuant to Section 14669 of the Government Code, the Director of General Services, acting on behalf of the California Highway Patrol, 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 area offices in Amador, Banning, Central Los Angeles, Fresno, Grass Valley, Modesto, Santa Maria, and Winterhaven.		
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		1,726,000
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		2,165,000
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		2,804,000
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		

Item		Amount
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 1991–92 fiscal year, for delivery beginning in the 1992–93 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		1,063,000
Schedule:		
(1) 50.01.001-Minor Projects	330,000	
(2) 50.11.042-Sacramento: New Logistical Facility (West Sacramento Site)—Working drawings	373,000	
(3) 50.32.302-San Francisco: New Facility—Preliminary plans and working drawings	209,000	
(4) 50.71.701-San Luis Obispo: New Facility—Preliminary plans	131,000	
(5) 50.90.900-Statewide: Property Options and Appraisals—Planning	20,000	
Provisions:		
1. The funds appropriated in category (5) shall be available for expenditure only during the 1991–92 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 1992–93 fiscal year.		
2720-490—Reappropriation, Department of the California Highway Patrol. The balance available in the appropriation provided in the following citation is available for encumbrance and expenditure until June 30, 1992:		
044—Motor Vehicle Account, State Transportation Fund.		
(1) Item 2720-001-044, Budget Act of 1988, Program 10—Traffic Management.		
2740-001-001—For support of Department of Motor Vehicles, for payment to Item 2740-001-044		60,000

Item		Amount
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		319,983,838
Schedule:		
(a) 11-Vehicle/Vessel Identification and Compliance	278,988,000	
(b) 22-Driver Licensing and Personal Identification	136,491,838	
(c) 25-Driver Safety	64,215,000	
(d) 32-Occupational Licensing and Investigative Services	28,292,000	
(e) 35-New Motor Vehicle Board	1,300,000	
(f) 41.01-Administration	57,244,000	
(g) 41.02-Distributed Administration	−57,244,000	
(h) Reimbursements	−14,179,000	
(i) Amount payable from the General Fund (Item 2740-001-001)	−60,000	
(j) Unallocated trigger reduction to General Fund Item 2740-001-001.	−2,000	
(k) Amount payable from the New Motor Vehicle Board Account (Item 2740-001-054)	−1,300,000	
(*l*) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 2740-001-064)	−169,465,000	
(m) Amount payable from the Harbors and Watercraft Revolving Fund (Item 2740-001-516)	−4,147,000	
(n) Amount payable from the Federal Trust Fund (Item 2740-001-890)	−150,000	
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 offices in Clovis, North Stockton, and Costa Mesa/Huntington Beach.		

Item		Amount
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		1,300,000
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		169,465,000
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		4,147,000
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		150,000
2740-011-044—For payment of deficiencies in appropriations for the Department of Motor Vehicles which may be authorized by the Director of Finance, with the consent of the Governor, payable from the Motor Vehicle Account, State Transportation Fund		(1,000,000)
Provisions:		
1. The Director of Finance shall report allocations from this appropriation in the same manner as required for reporting allocations from Item 9840-001-494 of this act.		
2740-021-044—For transfer by the Controller from the Motor Vehicle Account, State Transportation Fund, to the General Fund		(51,500,000)
2740-301-044—For capital outlay, Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund		5,684,000
Schedule:		
(1) 71.01.000-Minor Projects	708,000	
(2) 71.03.013-Sacramento: Headquarters Space Remodeling—Construction and Equipment	1,577,000	
(3) 71.03.020-Sacramento: DMV & CHP Headquarters Consolidation Feasibility Study	439,000	
(4) 71.15.010-Redlands: Purchase Leased Facility	1,512,000	
(5) 71.16.010-Hemet: Purchase Leased Facility	1,448,000	

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2740-495—Reversion, Department of Motor Vehicles. As of June 30, 1991, 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.
044—Motor Vehicle Account
(1) Chapter 1352, Statutes of 1990 for the program involving planned non-operation of motor vehicles.

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 87,253,000
Provisions:
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the data center in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.

2780-011-683—For transfer by the Controller from the Stephen P. Teale Data Center Revolving Fund to the General Fund ..... (7,300,000)
Provisions:
1. The Director of Finance is authorized to approve a loan to the Stephen P. Teale Data Center Revolving Fund in an amount sufficient to meet the cash flow needs of the Stephen P. Teale Data Center, resulting from the transfer authorized by this item.

RESOURCES

3110-001-001—To the Resources Agency, Special Resources 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 489,000
Schedule:
(a) 30-Sea Grant Program 509,000
(b) Trigger reduction ..... −20,000

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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		910,000
Schedule:		
(a) 10-Tahoe Regional Planning Agency	948,000	
(b) Trigger reduction	−38,000	
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		800,000
Provisions:		
1. The Tahoe Regional Planning Agency shall use the funds appropriated by this item in the following manner: $379,000 to continue the Lake Tahoe Regional Integrated Monitoring Program; $70,000 to continue the community planning process; $330,000 to continue the development and installation of the Tahoe Environmental Geographic Information System; $12,000 to continue the evaluation of the progress towards meeting environmental thresholds and standards pursuant to the Tahoe Regional Plan; and, $9,000 to continue mapping of stream environment zones.		
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.		

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3125-001-001—For support of California Tahoe Conservancy		804,000
Schedule:		
(a) 10-Tahoe Conservancy	2,290,000	
(b) Trigger reduction	−8,000	
(c) Reimbursements	−30,000	
(d) Amount payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3125-001-164)	−388,000	
(e) Amount payable from the Tahoe Conservancy Fund (Item 3125-001-568)	−143,000	
(f) Amount payable from the Lake Tahoe Acquisitions Fund (Item 3125-001-720)	−917,000	
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		388,000
3125-001-568—For support of California Tahoe Conservancy, for payment to Item 3125-001-001, payable from the Tahoe Conservancy Fund		143,000
Provisions:		
1. Of this amount, pursuant to Section 66908.3 of the Government Code, the conservancy shall pay to the County of Placer, $35,687.50 and the County of El Dorado, $62.50.		
2. Fifty percent (50%) of the amount appropriated under Provision 1 above shall be used by the Counties of Placer and El Dorado 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		917,000
3125-101-164—For local assistance, California Tahoe Conservancy, Program 10—Tahoe Conservancy, for soil erosion control grants, payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund		2,250,000
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.		

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3125-301-164—For capital outlay, California Tahoe Conservancy, payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund..... 2,281,000

Schedule:

(a) 50.30.002-Land acquisition and site improvements—public access and recreation pursuant to Title 7.42 of the Government Code 1,250,000

(b) 50.30.004-Land acquisition and site improvements—stream environment zones and watershed restorations, pursuant to Title 7.42 of the Government Code..... 1,301,000

(c) Reimbursements..... −270,000

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.

3125-301-262—For capital outlay, California Tahoe Conservancy, payable from the Habitat Conservation Fund..... 500,000

Schedule:

(1) 50.30.003-Acquisition, restoration, and enhancement of habitat..... 500,000

Provisions:

1. 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.
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 pub-

Item		Amount
lic 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.		
3125-301-720—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.		
3125-490—Extension of liquidation period, California Tahoe Conservancy. Notwithstanding any other provision of law, the funds appropriated in Item 3125-101-190, Budget Act of 1985, as reappropriated by Item 3125-491, Budget Act of 1988, shall be available for liquidation until June 30, 1992.		
3340-001-001—For support of California Conservation Corps		37,671,283
Schedule:		
(a) 10-Training and Work Program	54,668,935	
(b) 20.01-Administration	4,660,209	
(c) 20.02-Distributed Administration	−4,770,000	
(d) Unallocated trigger reduction	−910,000	
(e) Reimbursements	−9,721,861	
(f) Amount payable from the Energy Resources Programs Account, General Fund (Item 3340-001-465)	−6,022,000	
(g) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3340-001-235)	−234,000	

Item	Amount
Provisions: 1. It is the intent of the Legislature that $152,000 of the amount appropriated in this item will be spent for corpsmembers salaries and support for the establishment of a satellite center in San Fernando Valley.	
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	234,000
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	6,022,000
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	5,150,000
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.	1,231,000
Provisions: 1. Of the amount appropriated in this item, $1,123,000 shall be available for expenditure on the transportation related support activities of the Transportation Technology and Fuels office within the Commission.	
3360-001-314—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from the Diesel Emission Reduction Fund	64,000
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.	

Item			Amount
3360-001-465—For support of State Energy Resources Conservation and Development Commission, payable from the Energy Resources Programs Account, General Fund			34,636,000
Schedule:			
(a) 100000-Personal Services		26,690,000	
(b) 300000-Operating Expenses and Equipment		13,460,000	
(c) Special Items of Expense		63,897,000	
(1) Energy Technologies Research, Development and Demonstration projects	1,000,000		
(2) Siting and Permit assistance	300,000		
(3) Energy Conservation Assistance Loans	5,000,000		
(4) Solar Energy and Energy Conservation Bank	50,000		
(5) Export Development Project	250,000		
(6) Technology Export Conference	50,000		
(7) Schools and Hospital grants	1,000,000		
(8) Export Trade and Development Grant	360,000		
(9) Certification of compliance options	75,000		
(11) Schoolbus Demonstration Program	45,000,000		
(12) Intervenor Award Programs.	227,000		
(13) Compressed Natural Gas—Advanced technology	500,000		
(14) Electric Vehicle—Advanced technology	500,000		

Item		Amount
(15) Non-Petroleum Fuel Infrastructure	1,000,000	
(16) Technical Assistance for Alternative fuels demonstration	250,000	
(17) Clean Fuel/Low emission vehicle study	150,000	
(18) Co-fund Fuel Flexible Vehicles	1,000,000	
(19) Host site for International Geothermal Secretariat	85,000	
(cx) Unallocated reduction		−1,600,000
(d) Reimbursements		−435,000
(e) Amount payable from State Energy Conservation Assistance Account (Item 3360-001-033)		−5,150,000
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3360-001-044)		−1,231,000
(fx) Amount payable from the Diesel Emission Reduction Fund (Item 3360-001-314)		−64,000
(g) Amount payable from the Energy Technologies Research, Development and Demonstration Account (Item 3360-001-479)		−1,000,000
(h) Amount payable from Petroleum Violation Escrow Account (Item 3360-001-853)		−718,000
(i) Amount payable from the Federal Trust Fund (Item 3360-001-890)		−1,801,000
(j) Amount payable from the Clean Fuels Account, General Fund (Chapter 1340, Statutes of 1986)		−50,000
(k) Amount payable from the Local Jurisdiction Energy Assistance Account, General Fund (Chapter 1343, Statutes of 1986)		−170,000
(*l*) Amount payable from Petroleum Violation Escrow Account (Chapter 1338, Statutes of 1986)		−40,000

Item		Amount
(m)	Amount payable from Petroleum Violation Escrow Account (Chapter 1341, Statutes of 1986)	−50,000
(n)	Amount payable from Katz Schoolbus Fund (Item 3360-001-854, Budget Act of 1990, as reappropriated by Item 3360-490, Budget Act of 1991)	−8,349,000
(o)	Amount payable from Katz Schoolbus Fund (Chapter 1426, Statutes of 1988)	−36,651,000
(p)	Amount payable from Petroleum Violation Escrow Account (Chapter 1436, Statutes of 1988)	−1,127,000
(q)	Amount payable from Katz Schoolbus Fund (Item 3360-001-854)	−116,000
(r)	Amount payable from Energy Resources Programs Account, General Fund (Public Resources Code Section 25402.1)	−75,000
(s)	Amount payable from General Fund (Chapter 1611, Statutes of 1990)	−25,000
(t)	Amount payable from Local Government Geothermal Resources Revolving Subaccount (Item 3360-001-497)	−143,000
(u)	Amount payable from Petroleum Violation Escrow Account (Chapter 1426, Statutes of 1988)	−16,000
(v)	Amount payable from Petroleum Violation Escrow Account (Chapter 1661, Statutes of 1990)	−3,500,000

Provisions:

1. Of the funds appropriated in this item, $170,000 may be expended to purchase an optical disk computer system only after submission to and approval by the Department of Finance of a Special Project Report, as outlined in Sections 4945 to 4945.2, inclusive, of the State Administrative Manual. If the Special Project Report is not approved, the funding shall revert to the Energy Resources Programs Account in the General Fund.
2. The unallocated reduction shall not apply to resources budgeted for power plant siting work load.

Item	Amount
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 loans and grants to provide a variety of contract research projects	1,000,000
Provisions:	
1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1994.	
3360-001-497—For support of State Energy Resources Conservation and Development Commission, for payment to Item 3360-001-465, payable from the Local Government Geothermal Resources Revolving Subaccount, General Fund	143,000
Provisions:	
1. Notwithstanding Section 3822.2 of the Public Resources Code, the State Energy Resources Conservation and Development Commission may expend $143,000 for facilitating a host site in California for the International Geothermal Association Secretariat.	
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	718,000
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	116,000
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	1,801,000
3360-011-033—For transfer by the Controller from the State Energy Conservation and Assistance Account, General Fund to the General Fund	(5,800,000)
3360-011-465—State Energy Resources Conservation and Development Commission. Notwithstanding any other provision of law, the Controller shall transfer $2,723,000 from the Energy Resources Programs Account (465) to the General Fund (001)	(2,723,000)

Item	Amount
3360-011-479—For transfer by the State Controller from the Energy Technologies Research, Development and Demonstration Account (3360-001-479) to the General Fund	(1,337,000)
3360-101-497—For local assistance, State Energy Resources Conservation and Development Commission, pursuant to the provisions of Public Resources Code Section 3822, payable from the Local Government Geothermal Resources Revolving Subaccount, General Fund	2,800,000

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, 1995.

3360-490—Reappropriation, State Energy Resources Conservation and Development Commission. The balance of the appropriations provided in the following citations are reappropriated for the purposes provided in those appropriations, and shall be available for encumbrance and expenditure until June 30, 1992.

853—Petroleum Violation Escrow Account:

(1) Chapter 1436, Statutes of 1988, Section 1(b)(1) and Section 1(b)(3).
(2) Chapter 1435, Statutes of 1988, Section 4.
(3) Chapter 1429, Statutes of 1988, Section 3(d).

854—Katz Schoolbus Fund:

(1) Item 3360-001-854, Budget Act of 1990.
(2) Chapter 1426, Statutes of 1988, Section 4(a)(1).

3360-491—Extension of liquidation period, State Energy Resources Conservation and Development Commission. Notwithstanding any other provision of law, the funds appropriated in Item 3360-101-034, Budget Act of 1987, shall be available for liquidation until June 30, 1992, and $1,500,000 of the funds appropriated in Chapter 1339, Statutes of 1986, shall be available for liquidation until December 31, 1992, for projects in the Santa Ana School District ($500,000) and for projects in the Oxnard School District ($1,000,000).

3380-001-226—For support of California Integrated Waste Management Board, for payment to Item 3380-001-387, payable from the Tire Recycling Management Fund	3,300,000

Item			Amount
3380-001-281—For support of California Integrated Waste Management Board, for payment to Item 3380-001-387, payable from the Recycling Market Development Revolving Loan Account			5,000,000
3380-001-387—For support of California Integrated Waste Management Board, payable from the Integrated Waste Management Account, Integrated Waste Management Fund			32,596,000
Schedule:			
(a) 10-Planning and Enforcement		18,909,000	
(b) 15-Disposal Site Clean-up and Maintenance		8,095,000	
(c) 20-Waste Reduction and Resource Recovery		22,448,000	
(d) 25-Tire Recycling		3,300,000	
(e) 30-Administration		11,912,000	
(f) Distributed Administration		−10,889,000	
(g) Amount payable from Tire Recycling Management Fund (Item 3380-001-226)		−3,300,000	
(h) Amount payable from Recycling Market Development Revolving Loan Account (Item 3380-001-281)		−5,000,000	
(i) Amount payable from Solid Waste Disposal Site Cleanup and Maintenance Account (Item 3380-001-435)		−12,879,000	
Provisions:			
1. Notwithstanding Section 42145 of the Public Resources Code, the board may offset the costs of administering the revolving loan program for Recycling Market Development Zones with funds appropriated in this item.			
2. For fiscal year 1991–92, the board shall set the fee authorized by Section 48000 of the Public Resources Code at a level that results in maintaining a prudent reserve of no more than 7 percent of approved expenditures.			
3380-001-435—For support of California Integrated Waste Management Board, for payment to Item 3380-001-387, payable from the Solid Waste Disposal Site Cleanup and Maintenance Account, Integrated Waste Management Fund			12,879,000

Item			Amount
3380-003-387—For transfer by the State Controller to the Recycling Market Development Revolving Loan Account as a loan pursuant to Public Resources Code Section 42145(e)			(5,000,000)
3380-101-435—For local assistance, California Integrated Waste Management Board, payable from the Solid Waste Disposal Site Cleanup and Maintenance Account, Integrated Waste Management Fund			5,500,000
3380-490—Reappropriation, California Integrated Waste Management Board $755,000 of the amount appropriated in Item 338-001-387, Budget Act of 1990, for support of the California Integrated Waste Management Board, is reappropriated for the completion of the of the office automation project.			
3400-001-014—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Hazardous Waste Control Account, General Fund			130,000
Provisions:			
1. Notwithstanding Section 25174 of the Health and Safety Code, the amount appropriated by this item shall be available for the purposes of the State Air Resources Board.			
3400-001-044—For support of State Air Resources Board, payable from the Motor Vehicle Account, State Transportation Fund			58,731,000
Schedule:			
(a) 10-Air Pollution Control		86,261,000	
(b) 20-Environmental Affairs		3,414,000	
(c) Reimbursements		−5,184,000	
(d) Amount payable from the Hazardous Waste Control Account, General Fund (Item 3400-001-014)		−130,000	
(e) Amount payable from the Air Pollution Control Fund (Item 3400-001-115)		−9,274,000	
(f) Amount payable from the California Environmental License Plate Fund (Item 3400-001-140)		−504,000	
(g) Amount payable from Outer Continental Shelf Land Act Section 8(g) Revenue Fund (Item 3400-001-164)		−900,000	

Item		Amount
(gx) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 3400-001-387) ..	−254,000	
(h) Amount payable from the Vehicle Inspection and Repair Fund (Item 3400-001-421)	−7,873,000	
(i) Amount payable from the Air Toxics Inventory and Assessment Account, General Fund (Item 3400-001-434)	−3,426,000	
(j) Amount payable from the Energy Resources Programs Account, General Fund (Item 3400-001-465)	−206,000	
(k) Amount payable from the Federal Trust Fund (Item 3400-001-890) ..	−3,193,000	
3400-001-115—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Air Pollution Control Fund		9,274,000
3400-001-140—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the California Environmental License Plate Fund		504,000
3400-001-164—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund		900,000
3400-001-387—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Integrated Waste Management Account, Integrated Waste Management Fund		254,000
3400-001-421—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Vehicle Inspection and Repair Fund		7,873,000
3400-001-434—For support of the State Air Resources Board, for payment to Item 3400-001-044, payable from the Air Toxics Inventory and Assessment Account, General Fund		3,426,000
3400-001-465—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Energy Resources Programs Account, General Fund		206,000
3400-001-890—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Federal Trust Fund		3,193,000

Item			Amount
3400-002-044—For support of State Air Resources Board, payable from the Motor Vehicle Account, State Transportation Fund			650,000
Schedule:			
(a) 20-Environmental Affairs		1,198,000	
(b) Reimbursements		−251,000	
(c) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 3400-002-387)		−297,000	
Provisions:			
1. The funds appropriated in this item may not be expended unless the Governor's Reorganization Plan No. 1, creating a state Environmental Protection Agency, becomes effective on or before July 17, 1991.			
2. Of the amount appropriated in this item, $483,000 shall be encumbered only after the Legislature enacts legislation which makes reference to a "California Environmental Protection Agency."			
3400-002-387—For support of State Air Resources Board, for payment to Item 3400-001-044, payable from the Integrated Waste Management Account, Integrated Waste Management Fund			297,000
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			286,000
Schedule:			
(a) 100000-Personal Services		742,000	
(b) 300000-Operating Expenses and Equipment		201,000	
(c) Unallocated trigger reduction		−1,000	
(d) Reimbursements		−647,000	
(e) Amount payable from the California Environmental License Plate Fund (Item 3460-001-140)		−9,000	
3460-001-140—For support of Colorado River Board, for payment to Item 3460-001-001, payable from the California Environmental License Plate Fund			9,000

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		15,539,000
Schedule:		
(a) 10-Geologic Hazards and Mineral Resources Conservation	16,400,000	
(b) 20-Oil, Gas, and Geothermal Protection	10,168,000	
(c) 30-Special Services for Resources Protection	1,400,000	
(d) 40.01-Administration	6,089,000	
(e) 40.02-Distributed Administration	−6,089,000	
(f) 50-Beverage Container Recycling and Litter Reduction Program	25,534,000	
(fx) Unallocated trigger reduction	−106,000	
(g) Reimbursements	−1,506,000	
(h) Amount payable from the Surface Mining and Reclamation Account, General Fund (Item 3480-001-035)	−2,124,000	
(i) Amount payable from the State Highway Account, State Transportation Fund (Item 3480-001-042)	−12,000	
(j) Amount payable from the California Beverage Container Recycling Fund (Item 3480-001-133)	−25,534,000	
(jx) Amount payable from the Environmental License Plate Fund (Item 3480-001-140)	−58,000	
(k) Amount payable from the Soil Conservation Fund (Item 3480-001-141)	−1,127,000	
(*l*) Amount payable from the California Water Fund (Item 3480-001-144)	−12,000	
(lx) Amount payable from Hazardous and Idle-Deserted Well Abatement Fund (Public Resources Code Section 3206)	−100,000	
(m) Amount payable from Mine Reclamation Account (Item 3480-001-336)	−963,000	

Item		Amount
(n) Amount payable from Seismic Hazards Identification Special Fund (Item 3480-001-338)	−2,397,000	
(o) Amount payable from the Strong Motion Instrumentation Program Fund (Item 3480-001-398)	−3,511,000	
(p) Amount payable from the Federal Trust Fund (Item 3480-001-890)	−513,000	

Provisions:

1. Advertisement and marketing that targets consumers and is funded by the California Beverage Container Recycling Fund shall indicate that the California Beverage Container Recycling and Litter 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 2,124,000

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..... 25,534,000

3480-001-140—For support of Department of Conservation, for payment to 3480-001-001, payable from the Environmental License Plate Fund..... 58,000

3480-001-141—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Soil Conservation Fund..... 1,127,000

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.

Item		Amount
3480-001-336—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Mine Reclamation Account		963,000
3480-001-338—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Seismic Hazards Identification Fund		2,397,000
3480-001-398—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Strong Motion Instrumentation Program Fund		3,511,000
3480-001-890—For support of Department of Conservation, for payment to Item 3480-001-001, payable from the Federal Trust Fund		513,000
3480-002-336—For transfer by the State Controller from the Mine Reclamation Account to the Strong Motion Instrumentation Special Fund, to pay interest on repayment of a loan provided in Chapter 1097, Statutes of 1990		33,000
3480-011-336—For transfer by the State Controller from the Mine Reclamation Account to the Strong Motion Instrumentation Special Fund, to provide for partial repayment of a loan provided in Chapter 1097, Statutes of 1990		(136,000)
3540-001-001—For support of Department of Forestry and Fire Protection		225,415,000
Schedule:		
(a) 100000-Personal services	256,639,000	
(b) 300000-Operating expenses and equipment	138,574,000	
(c) Reimbursements	−87,875,000	
(cx) Unallocated trigger reduction	−6,684,000	
(d) Amount payable from the General Fund (Item 3540-006-001)	−30,000,000	
(e) Amount payable from the Special Account for Capital Outlay (Item 3540-001-036)	−8,203,000	
(ex) Amount payable from the Special Account for Capital Outlay (Item 3540-001-036, Budget Act of 1990 as reappropriated by Item 3540-490, Budget Act of 1991)	−5,000,000	
(f) Amount payable from the California Environmental License Plate Fund (Item 3540-001-140)	−5,937,000	

Item		Amount
(g)	Amount payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3540-001-164)	−822,000
(gx)	Amount payable from the Forest Practice Regulatory Fund (Item 3540-001-195)	−2,950,000
(gy)	Amount payable from the State Responsibility Area Fire Protection Benefit Fund (Item 3540-001-197)	−6,000,000
(h)	Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3540-001-235)	−3,798,000
(i)	Amount payable from the Professional Forester Registration Fund (Item 3540-001-300)	−165,000
(j)	Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3540-001-786)	−38,000
(k)	Amount payable from the Federal Trust Fund (Item 3540-001-890)	−7,094,000
(*l*)	Amount payable from the Forest Resources Improvement Fund (Item 3540-001-928)	−5,207,000
(m)	Amount payable from the Timber Tax Fund (Item 3540-001-965)	−25,000

Provisions:

1. 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.
2. No deficiency shall be created pursuant to Section 27 of this act or Section 11006 of the Government Code to cover shortfalls in payments by local jurisdictions. This requirement does not prevent the department from seeking a loan under the authority of Item 9840-011-001.
3. The department shall use to offset its General Fund costs any federal funds it receives that are (1) in excess of the amount scheduled in the budget and (2) for base fire suppression costs. Any moneys freed up as the result of receipt of

Item	Amount
these federal funds shall revert to the General Fund.	
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	8,203,000
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	5,937,000
Provisions:	
1. Any revenues from fees collected for use of the Wildlife Habitat Planning and Assessment data base shall be, to the extent feasible, used to reimburse the Public Resources Account, Cigarette and Tobacco Products Surtax Fund, and the California Environmental License Plate Fund for the cost of developing and maintaining the data base.	
3540-001-164—For support of the Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund	822,000
3540-001-195—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the forest practice regulatory fee revenues to the Forest Practice Regulatory Fund. This appropriation shall not exceed the amount of funds available from forest practice regulatory fees	2,950,000
Provisions:	
1. The State Controller shall, to the extent that revenues are insufficient to fund this item, make available a General Fund loan of up to $2,950,000 to this item for cash flow purposes.	
2. Notwithstanding any other provision of law, to the extent that additional revenues from forest practice regulatory fees are received for 1991–92 beyond the $2,950,000 required to fund this item, up to $2,950,000 shall be transferred to the General Fund.	
3540-001-197—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from State responsibility area fire protection fee revenues to the State Responsibility Area Benefit Fund. This appropriation shall not exceed the amount of funds available from State re-	

Item	Amount
sponsibility area fire protection fees	6,000,000
Provisions:	
1. The State Controller shall, to the extent that revenues are insufficient to fund this item, make available a General Fund loan of up to $6,000,000 to this item for cash flow purposes.	
2. Notwithstanding any other provision of law, to the extent that additional revenues from State responsibility area fire protection fees are received for 1991–92 beyond the $6,000,000 required to fund this item, up to $6,000,000 shall be transferred to the General Fund.	
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	3,798,000
Provisions:	
1. Any revenues from fees collected for use of the Wildlife Habitat Planning and Assessment data base shall be, to the extent feasible, used to reimburse the Public Resources Account and the Environmental License Plate Fund for the cost of developing and maintaining the data base.	
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	165,000

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	38,000
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	7,094,000
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	5,207,000

Item Amount

Provisions:

1. Notwithstanding any other provision of law, administration of Chapter 8 (commencing with Section 4511) of Part 2 of the Public Resources Code, $500,000 of the funds appropriated in this item shall be allocated as a loan for the initial costs incurred by the department between January 1, 1992, and June 30, 1992. This amount shall be repaid by the department, during the three subsequent years, together with interest calculated at the rate received upon deposits held in the Pooled Money Investment Account, from fees established and collected pursuant to Section 4581.5 of the Public Resources Code.
2. The amount of $500,000 specified in Provision 1 of this item shall only be available for expenditure if Assembly Bill 641, Assembly Bill 714, Senate Bill 300, and Senate Bill 854 of the 1991–92 Regular Session are also enacted and take effect on January 1, 1992.
3. Of the funds appropriated in this item, $4,707,000 shall be available for support and administration of forest improvement projects pursuant to Chapter 1 (commencing with Section 4790) of Part 2.5 of the Public Resources Code.

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 25,000

3540-006-001—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-001, payable from the General Fund 30,000,000

Provisions:

1. These funds shall be available for emergency fire suppression and detection costs and related emergency revegetation costs and may be used for these purposes to reimburse the main support appropriation (Item 3540-001-001) only upon approval by the Director of Finance.
2. The Director of Forestry and Fire Protection shall furnish quarterly reports on expenditures for emergency fire suppression activities to the Director of Finance, as well as to the chairperson of the committee of each house which considers appropriations and to the Chairperson of the Joint Legislative Budget Committee.

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, 1991, through June 30, 1992, payable from the Forest Resources Improvement Fund	(1,674,000)
3540-021-928—For transfer by the Controller from the Forest Resources Improvement Fund to the General Fund	(5,636,000)

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		5,468,000
Schedule:		
(2) 30.10.080-Sandy Point Forest Fire Station: Fire Station Replacement—Working drawings, construction, equipment	803,000	
(5) 30.20.065-Pondosa Forest Fire Station: Fire Station Replacement—Acquisition, working drawings	96,000	
(6) 30.30.005-Rainbow Conservation Camp: Acquire Leased Site—Acquisition	480,000	
(7) 30.40.005-Fresno Air Attack Base: Facility Replacement—Working drawings, construction, equipment	2,512,000	
(8) 30.40.075-Bitterwater Helitack Base: New Base—Working drawings	52,000	
(11) 30.80.000-Minor Projects	1,525,000	
Provisions:		
1. Notwithstanding any other provision of law, the funds appropriated for category (7) of this item may be used for the Department of Forestry and Fire Protection's portion of a joint Federal-		

Item		Amount
State project to be designed and constructed through the services of the United States Forest Service. An agreement for these services was entered into between the Forest Service and the Department of Forestry and Fire Protection before the allocation of preliminary planning funds. This project is subject to Section 13332.11 of the Government Code, and any augmentation of these funds is subject to existing law.		
3540-490—Reappropriation, Department of Forestry and Fire Protrection. The balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation, and shall be available for encumbrance and expenditure until June 30, 1992.		
036—Special Account for Capital Outlay		
(1) Item 3540-001-036, Budget Act of 1990		
3560-001-001—For support of State Lands Commission ..		14,022,000
Schedule:		
(a) 10-Mineral Resources Management	9,434,000	
(b) 20-Land Management	8,141,000	
(c) 30.01-Executive and Administration	3,854,000	
(d) 30.02-Distributed Administration .	−3,854,000	
(e) 40-Marine Facilities Management	3,350,000	
(f) Unallocated trigger reduction	−266,000	
(g) Reimbursements	−2,367,000	
(h) Amount payable from the California Environmental License Fund (Item 3560-001-140)	−209,000	
(i) Amount payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund (Item 3560-001-164)	−154,000	
(j) Amount payable from the Oil Spill Prevention and Administration Fund (Item 3560-001-320)	−3,907,000	
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.		

Item		Amount
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		209,000
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		154,000
3560-001-320—For support of State Lands Commission, for payment to Item 3560-001-001, payable from the Oil Spill Prevention and Administration Fund		3,907,000
Provisions:		
1. None of the funds appropriated in this item may be expended to monitor or inspect marine bunkering operations from barges or any marine lightering operations.		
3560-001-347—For transfer by the State Controller from the School Land Bank Fund to the General Fund		(7,000,000)
3580-001-001—For support of Seismic Safety Commission		977,000
Schedule:		
(a) 10-Seismic Safety Commission	989,000	
(b) Trigger reduction	−7,000	
(c) Reimbursements	−5,000	
3600-001-001—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the General Fund		4,903,000
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		12,327,000
3600-001-176—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Delta Flood Protection Fund		3,350,000
Provisions:		
1. Of the funds appropriated in this item, $350,000 shall be spent solely for the purposes of carrying out the responsibilities of the Department of Fish and Game pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code.		

Item		Amount
2. Of the funds appropriated in this item, $3,000,000 shall be spent to implement projects to compensate for damage to riparian, fisheries, and wildlife habitat that has occurred as a result of projects funded pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code prior to July 1, 1991. The projects shall be designed and implemented to achieve the habitat projection standards established in Section 12987 of the Water Code.		
3600-001-200—For support of Department of Fish and Game payable from the Fish and Game Preservation Fund		66,548,579
Schedule:		
(a) 10-Enforcement of Laws and Regulations	30,277,000	
(b) 35-Wildlife and Natural Heritage Management	25,314,000	
(c) 55-Fisheries Management	61,085,167	
(d) 60-Environmental Services	20,542,838	
(e) 65-Oil Spill Prevention and Response Program	13,253,000	
(f) 70.01-Administration	25,130,998	
(g) 70.02-Distributed Administration	−25,402,000	
(hh) Unallocated reduction	−352,000	
(i) Reimbursements	−15,821,000	
(j) Unallocated trigger reduction to General Fund Item 3600-001-001.	−104,000	
(k) Amount payable from the General Fund (Item 3600-001-001)	−4,903,000	
(*l*) Amount payable from the California Environmental License Plate Fund (Item 3600-001-140)	−12,246,000	
(mx) Amount payable from the Delta Flood Protection Fund (Item 3600-001-176)	−3,350,000	
(n) Amount payable from the Fish and Game Preservation Fund, for reimbursement to the State Department of Health Services for shellfish monitoring activities (Item 3600-031-200)	−203,000	
(o) Amount payable from the Fish and Wildlife Pollution Cleanup and Abatement Account, Fish and Game Preservation Fund (Item 3600-001-207)	−542,000	

Item		Amount
(p)	Amount payable from the Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund (3600-001-211)	−188,000
(q)	Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3600-001-235)	−4,430,000
(r)	Amount payable from the Oil Spills Prevention and Administration Fund (Item 3600-001-320)	−13,514,000
(s)	Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3600-001-786)	−3,091,000
(t)	Amount payable from the Federal Trust Fund (Item 3600-001-890)	−24,307,424
(u)	Amount payable from the Renewable Resources Investment Fund (Item 3600-001-940)	−341,000
(v)	Amount payable from the Fish and Game Preservation Fund (Chapter 1681, Statutes of 1989)	−260,000

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 (i) and (t) 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 sufficient funds to finance the increased authorization. This increased authorization may not be used to expand services or create new obligations.

   Reimbursements received under categories (i) and (t) 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

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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 funds appropriated in category (b) of this item, $523,000 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.

4. Of the funds appropriated in category (c) of this item, $3,335,000 shall be used for purposes consistent with the requirements of the California Environmental License Plate Fund and the Habitat Conservation Fund.

5. Of the amount provided in this item, $1,000,000 shall be (a) used for the support of the department's streambed alteration agreements program and (b) funded from the streambed alteration permit dedicated account.

6. The department shall distribute the unallocated reduction of $352,000 shown in the Item's schedule among the specific reductions proposed as Phase A, B, or C in the department's document "Fiscal Year 1991–92 Contingency Program Reductions," dated May 23, 1991. To the extent possible, the department shall make reductions in operating expenses rather than in personnel.

Item	Amount
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	542,000
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	188,000
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	4,430,000
3600-001-320—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Oil Spill Prevention and Administration Fund	13,253,000

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 for the California Wildlife, Coastal, and Park Land Conservation Program	3,091,000
3600-001-890—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Federal Trust Fund	24,307,424
3600-001-940—For support of Department of Fish and Game, for payment to Item 3600-001-200, payable from the Renewable Resources Investment Fund	341,000
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	17,000
3600-031-200—For support of Department of Fish and Game, for payment to Item 3600-001-200, for reimbursement to the State Department of Health Services for shellfish monitoring activities, payable from the Fish and Game Preservation Fund	203,000
3600-301-200—For capital outlay, Department of Fish and Game, payable from the Fish and Game Preservation Fund	1,086,000
Schedule:	
(1) 90.07.100-Minor projects	1,326,000

Item		Amount
(3) 90.88.002-Darrah Springs Hatchery-Refurbish Broodstock Ponds—Preliminary plans, working drawing	56,000	
(4) 90.88.015-Budget Schematics	20,000	
(5) 90.91.001-Mokelumne River Hatchery-Salmon Egg Taking Facility-Preliminary plans and working drawings	98,000	
(6) 90.91.002-Replace Fish Habitat Shop-Red Bluff-Acquisition, Preliminary plans, and working drawings	102,000	
(7) Reimbursements-Minor projects	−158,000	
(8) Amount payable from the Federal Trust Fund (Item 3600-301-890)	−358,000	
3600-301-235—For capital outlay, Department of Fish and Game, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		0
Schedule:		
(1) 90.07.100-Minor projects	500,000	
(2) Reimbursement-Minor projects	−500,000	
3600-301-320—For capital outlay, Department of Fish and Game, payable from the Oil Spill Prevention and Administrative Fund		1,182,000
Schedule:		
(1) 90.88.015-Budget Schematics	15,000	
(2) 90.91.003-Region II Headquarters-Petroleum Chemistry Laboratory—preliminary plans, working drawings, construction, and equipment	1,167,000	

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		55,000
Schedule:		
(1) 90.07.100-Minor projects	40,000	
(2) 90.88.015-Budget Schematics	15,000	
3600-301-890—For capital outlay, Department of Fish and Game, for payment to Item 3600-301-200, payable from the Federal Trust Fund		358,000

Item	Amount
3600-490—Reappropriation, Department of Fish and Game. Notwithstanding any other provision of law, the balance of the appropriation provided in the following citation is reappropriated for the purposes provided in the appropriation, and shall be available for encumbrance from Item 3600-301-140 until June 30, 1992: 140—California Environmental License Plate Fund (1) Item 3600-301-140(1), Budget Act of 1990, 90.07.100-Minor Projects-Upper Newport Bay Ecological Reserve parking lot ($60,000) to be used for the purpose as specified in the original appropriation.	
3600-491—Reappropriation, Department of Fish and Game. The balance of the appropriation provided in the following citation is hereby reappropriated: 140—Environmental License Plate Fund (1) Section 4(b)(1)(D), Chapter 1241, Statutes of 1989, shall be used for the Lake Merritt Rotary Nature Center and Bird Aviary at Lake Merritt in the City of Oakland.	
3600-495—Reversion, Department of Fish and Game. As of June 30, 1991, all but $415,000 of the unencumbered balance of the amount appropriated in paragraphs (1), (2), (3), and (5) of subdivision (a) of Section 22 of Chapter 1248, Statutes of 1990, shall revert to the Oil Spill Prevention and Administration Fund. The remaining $415,000 shall be available for the purposes specified in subdivision (a) of Section 8670.37.5 of the Government Code until June 30, 1992.	
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	60,000
3640-001-262—For support of Wildlife Conservation Board, for payment to Item 3640-001-447, payable from the Habitat Conservation Fund	6,113,000
Provisions: 1. Of the funds appropriated by this item, $1,471,000 shall be used for purposes consistent with the requirements of the California Environmental License Plate Fund, and the Habitat Conservation Fund; $1,963,000 shall be used for purposes consistent with the Public Resources Account, Cigarette and Tobacco Products Sur-	

Item		Amount
	tax Fund, and the Habitat Conservation Fund; $210,000 shall be used for purposes consistent with the requirements of the Cigarette and Tobacco Products Surtax Fund, Unallocated Account, and the Habitat Conservation Fund; and $2,469,000 shall be used for purposes consistent with the Outer Continental Shelf Land Act Section 8(g) Revenue Fund and the Habitat Conservation Fund.	
	2. Of the funds appropriated in this item, $210,000 is 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.	
	3. Of the amount appropriated by this item, $5,298,000 shall be available to the Department of Fish and Game pursuant to the Wildlife Conservation Law of 1947 to fund the following projects: Salmon and Steelhead Restoration ($777,000) Salmon and Steelhead Trout Anadromous Fisheries Restoration and Enhancement ($663,000) Waterfowl Habitat Preservation Program ($523,000) Trinity River Restoration ($2,022,000) Salmon Habitat Restoration ($991,000) Threatened Salmonids Project ($252,000) Salmon, Steelhead and Anadromous Fish ($70,000)	
	4. Of the amount appropriated by this item, $605,000 shall be available to the Department of Water Resources pursuant to the Wildlife Conservation Law of 1947 to fund the Trinity River Restoration project.	
3640-001-447—For support of Wildlife Conservation Board, payable from the Wildlife Restoration Fund. Schedule:		630,000
	(a) 10-Wildlife Conservation Board ... 7,060,000	
	(b) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Public Resources Code Section 5907) ..... —257,000	

Item		Amount
(c) Amount payable from Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3640-001-235)	−60,000	
(d) Amount payable from the Habitat Conservation Fund (Item 3640-001-262)	−6,113,000	
3640-011-140—For transfer to the Habitat Conservation Fund, payable from the California Environmental License Plate Fund		(1,471,000)
Provisions:		
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the California Environmental License Plate Fund and the Habitat Conservation Fund.		
3640-011-164—For transfer to the Habitat Conservation Fund, payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund		(2,469,000)
Provisions:		
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Outer Continental Shelf Land Act Section 8(g) Revenue Fund and the Habitat Conservation Fund.		
3640-011-235—For transfer to the Habitat Conservation Fund, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		(1,963,000)
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.		
3640-301-262—For capital outlay, Wildlife Conservation Board, payable from the Habitat Conservation Fund		5,182,000
Schedule:		
(a) 80.10.010 Minor Projects	500,000	
(b) 80.10.133 Waterfowl Habitat Acquisition	2,000,000	
(c) 80.10.134 Unallocated	1,682,000	
(d) 80.10.136.000 Upper Sacramento River Basin	1,000,000	
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		

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be subject to Public Works Board review.

2. Of the amount appropriated in this item $2,000,000 shall be expended for purposes consistent with the provisions of the Public Resources Account, Cigarette and Tobacco Products Surtax Fund, the Habitat Conservation Fund, and the Inland Wetlands Conservation Fund.
3. Of the amount appropriated in this item, $1,210,000 shall be expended for the purposes consistent with the provisions of the Unallocated Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.
4. Of the amount appropriated in this item, $500,000 shall be available for the Department of Fish and Game for the Comprehensive Wetland Habitat Project and shall be expended for purposes consistent with the provisions of the California Environmental License Plate Fund and the Habitat Conservation Fund.
5. Of the amount appropriated in this item, $472,000 shall be expended for purposes consistent with the provisions of the Public Resources Account, Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.
6. Of the amount appropriated in this item, $1,000,000 shall be expended for purposes consistent with the provisions of the Environmental License Plate 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 920,000

Schedule:

(1) 80.10.010-Minor Projects.....	700,000
(2) 80.10.020-Project Planning.....	20,000
(3) 80.10.030-Land Acquisitions.....	310,000
(4) Reimbursements.....	−110,000

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.

Item		Amount
3640-301-787—For capital outlay, Wildlife Conservation Board, payable from the Wildlife and Natural Areas Conservation Fund		5,050,000
Schedule:		
(1) 80.10.150-Project Planning	50,000	
(2) 80.10.215-Acquisition, enhancement, restoration, or protection of lands pursuant to Fish and Game Code Section 2720 (a)	5,000,000	
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.		
3640-311-140—For transfer to the Habitat Conservation Fund, payable from the California Environmental License Plate Fund		(1,500,000)
Provisions:		
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the California Environmental License Plate Fund and the Habitat Conservation Fund.		
3640-311-235—For transfer to the Habitat Conservation Fund, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund		(2,472,000)
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.		
3640-321-140—For transfer by the Controller from the Environmental License Plate Fund to the Habitat Conservation Fund as of June 30, 1991, $2,342,000, or such other amount which is necessary to preclude a transfer from the General Fund to the Habitat Conservation Fund pursuant to Section 2796 of the Fish and Game Code		(2,342,000)
Provisions:		
1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Environmental License Plate Fund and the Habitat Conservation Fund.		
3680-001-516—For support of Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		5,749,000

Item			Amount
Schedule:			
(a) 10-Boating Facilities		4,336,000	
(b) 20-Boating Operations		2,803,000	
(c) 30-Beach Erosion Control		273,000	
(d) 40.01-Administration		1,135,000	
(e) 40.02-Distributed Administration		−1,135,000	
(f) Reimbursements		−15,000	
(g) Amount payable from the Federal Trust Fund (Item 3680-001-890)		−1,648,000	
Provisions:			
1. Notwithstanding Harbors and Navigation Code Section 85.2, $273,000 of the funds appropriated in this item shall be expended for support of the Department of Boating and Waterways beach erosion control program.			
3680-001-890—For support of Department of Boating and Waterways, for payment to Item 3680-001-516, payable from the Federal Trust Fund			1,648,000
3680-011-516—For transfer to the General Fund, payable from the Harbors and Watercraft Revolving Fund			14,329,000
Provisions:			
1. Of the amount transferred in the 1991–92 fiscal year from the Motor Vehicle Fuel Account, Transportation Tax Fund to the Harbors and Watercraft Revolving Fund pursuant to Section 8352.4 of the Revenue and Taxation Code, the Controller shall transfer $14,329,000 to the General Fund.			
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) Barrett Cove, Lake McClure, Mariposa County	(425,000)		
2) Bass Lake, Madera County	(220,000)		
3) Convict Lake, Mono County	(236,000)		
4) Crescent City, Del Norte County	(40,000)		
5) Lake Cuyamaca, San Diego County	(50,000)		

Item		Amount
6) Discovery Park, Sacramento County	(449,000)	
7) Donner Lake, Nevada County	(15,000)	
8) Floating Restrooms, Statewide	(55,000)	
9) Gull Lake, Mono County	(414,000)	
10) Lemon Hill, Lake Kaweah, Tulare County	(65,000)	
11) Martinez Marina, Contra Costa County	(250,000)	
12) Medicine Lake, Siskiyou County	(134,000)	
13) Miller Park, Sacramento County	(210,000)	
14) Monterey Harbor, Monterey County	(275,000)	
15) Pillar Point, San Mateo County	(1,400,000)	
16) Ramp Repairs and Extensions, Statewide	(300,000)	
17) Richmond Marina, Contra Costa County	(356,000)	
18) Ripon, Stanislaus River, San Joaquin County	(395,000)	
19) San Pablo Reservoir, Contra Costa County	(500,000)	
20) Santa Clara Point, Mission Bay, San Diego County	(25,000)	
21) Whiskeytown Lake, Shasta County	(55,000)	
Small Craft Harbor Loans		(18,300,000)
1) Emergency Loans, Statewide	(200,000)	

Item		Amount
	2) Long Beach Marinas, Los Angeles County	(1,400,000)
	3) Morrow Bay, San Luis Osibpo County	(2,000,000)
	4) Oceanside Harbor, San Diego County	(2,000,000)
	5) Planning Loans, Statewide	(150,000)
	6) Redwood City, San Mateo County	(880,000)
	7) Richmond Marina, Contra Costa County	(75,000)
	8) San Leandro Marina, Alameda County	(500,000)
	9) Suisun City Marina, Solano County	(5,595,000)
	10) Sunset Aquatic Marina, Orange County	(5,500,000)
	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)	Amount payable from the Federal Trust Fund (Item 3680-101-890)	−850,000

Provisions:

1. Of the funds appropriated in category (a), $2,224,000 is for grants to cities, counties, districts, or other public agencies pursuant to Sections 72.5 and 72.7 of the Harbors and Navigation Code to be used for construction and development of small craft launching facilities and floating restrooms.
2. 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.
3. No funds appropriated in category (a) shall be expended unless and until all project permits

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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 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.

Item		Amount
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		1,559,000
Schedule:		
(1) 50.38.020-Candlestick Point SRA, Boat Launching Facility—Preliminary Plans	149,000	
(2) 50.99.010-Project Planning	10,000	
(3) 50.99.020—Minor Projects	1,400,000	
3720-001-001—For support of California Coastal Commission		6,766,000
Schedule:		
(a) 10-Coastal Management Program	9,261,000	
(b) 20-Coastal Energy Program	495,000	
(c) 30.01-Administration	1,537,000	
(d) 30.02-Distributed Administration	−1,208,000	
(dx) Unallocated trigger reduction	−134,000	
(e) Reimbursements	−329,000	
(f) Amount payable from the California Environmental License Plate Fund (Item 3720-001-140)	−1,110,000	
(g) Amount payable from the Federal Trust Fund (Item 3720-001-890)	−1,746,000	
Provisions:		
1. The commission shall, to the extent legally pos-		

Item		Amount
sible, 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.		
3. The commission shall increase its coastal development permit application fee schedule in 1991–92 so that it can recover a reasonable level of its costs in administering the permit program, in accordance with subdivision (c) of Section 30620 of the Public Resources Code. Furthermore, the schedule shall be increased so that at least 20 percent of General Fund administrative costs are recovered through fees. All fee revenues that the commission receives shall continue to be deposited in the General Fund. In addition, it is the intent of the Legislature that the commission periodically review the fee schedule.		
3720-001-140—For support of California Coastal Commission, for payment to Item 3720-001-001, payable from the California Environmental License Plate Fund		1,110,000
3720-001-890—For support of California Coastal Commission, for payment to Item 3720-001-001, payable from the Federal Trust Fund		1,746,000
3720-101-890—For local assistance, California Coastal Commission, Program 10—Coastal Management Program, payable from the Federal Trust Fund		250,000
3760-001-565—For support of State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1976		1,651,000
Schedule:		
(d) Reimbursements	−375,000	
(e) Amount payable from the State Coastal Conservancy Fund of 1984 (Item 3760-001-730)	−400,000	

Item		Amount
(f) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3760-001-786)	−1,000,000	
(g) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Public Resources Code Section 5907)	−700,000	
(h) 15.00.000.000—Coastal Resource Development	2,909,000	
(i) 25.00.000.000—Coastal Resource Enhancement	1,115,000	
(j) 90.01.000.000—Administration and Support	1,285,000	
(k) 90.02.000.000—Distributed Administration	−1,183,000	
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		400,000

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 for the California Wildlife, Coastal, and Park Land Conservation Program		1,000,000
3760-101-565—For local assistance, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1976		125,000
Schedule:		
(b) 15.10.000.000—Public Access and Waterfronts	125,000	
3760-301-262—For capital outlay, State Coastal Conservancy, payable from the Habitat Conservation Fund		4,000,000
(1) 80.19.040—Resource Enhancement	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:		

Item Amount

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.

3. Of the funds appropriated in this item, $400,000 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.

4. Of the funds appropriated in this item, $1,000,000 shall be used for purposes consistent with the requirements of the Fish and Wildlife Habitat Enhancement Act of 1984 and the Habitat Conservation Fund.

5. Of the funds appropriated in this item, $1,152,000 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.

6. Of the funds appropriated in this item, $100,000 shall be used for purposes consistent with the State Coastal Conservancy Fund of 1976 and the Habitat Conservation Fund.

7. Of the funds appropriated in this item, $1,348,000 shall be used for purposes consistent with the requirements of the Unallocated Account, Cigarette and Tobacco Products Surtax Fund and the Habitat Conservation Fund.

3760-301-730—For capital outlay, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1984 3,000,000

Schedule:

(1) 80.18.030—Public Access 1,000,000

(2) 80.18.060—Urban Waterfront Restoration 2,000,000

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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. Notwithstanding Section 6.5 of this act, the conservancy may transfer funds between programs in categories (1)–(2). 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)–(2), 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 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 250,000

Schedule:

(1) 80.18.050-Site Reservation 250,000

Provisions:

1. The conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which pro-

Item Amount

vides 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.

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 2,600,000

Schedule:

(1) 80.18.010-Agricultural Land Preservation..... 400,000

(2) 80.18.020-Coastal Restoration..... 1,000,000

(3) 80.18.030-Public Access..... 1,200,000

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. Notwithstanding Section 6.50 of this act, the conservancy may transfer funds between programs in categories (1) through (3), 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 (3), 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.

3760-305-565—For capital outlay, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1976 1,400,000

Schedule:

(1) 80.18.010-Agricultural Land Preservation	100,000
(2) 80.18.020-Coastal Restoration	500,000
(3) 80.18.030-Public Access	300,000
(4) 80.18.060-Urban Waterfront Restoration	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.

Item Amount

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.

3. Notwithstanding Section 6.5 of this act, the conservancy may transfer funds between programs in categories (1)–(4). 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)–(4), the amounts allocated by the conservancy, and an explanation of any difference between the scheduled and allocated amounts.

3760-311-235—For transfer to the Habitat Conservation Fund, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund ..... (1,152,000)

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.

3760-311-565—For transfer to the Habitat Conservation Fund, payable from the State Coastal Conservancy Fund of 1976..... (100,000)

Provisions:

1. The funds transferred by this item shall be used for purposes consistent with the requirements of the State Coastal Conservancy Fund of 1976 and the Habitat Conservation Fund.

3760-311-748—For transfer to the Habitat Conservation Fund, payable from the Fish and Wildlife Habitat Enhancement Fund..... 1,000,000

Provisions:

1. The funds transferred by this item shall be used for purposes consistent with the requirements of the Fish and Wildlife Habitat Enhancement

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Fund and the Habitat Conservation Fund.		
3760-311-786—For transfer to the Habitat Conservation Fund, payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988		400,000
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 of 1988 and the Habitat Conservation Fund.		
3790-001-001—For support of Department of Parks and Recreation		64,666,000
Schedule:		
(a) 100000-Personal Services	125,921,877	
(b) 300000-Operating Expenses and Equipment	50,164,123	
(c) 400001-Special Item of Expense—Rehabilitation of Camping Facilities	200,000	
(cx) Unallocated trigger reduction	−932,000	
(d) Reimbursements	−5,627,000	
(dt) Amount payable from the General Fund (Chapter 1241, Statutes of 1989, Section 4(a)(3))	−24,000	
(du) Amount payable from the California Environmental License Plate Fund (Transfer from Item 3790-101-140 per Provision 4 of Item 3790-001-001, Budget Act of 1990)	−19,000	
(dv) Amount payable from the California Environmental License Plate Fund (Chapter 1241, Statutes of 1989, Section 4(b)(4)(A)(B))	−6,000	
(e) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3790-001-235)	−3,967,000	
(et) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Transfer from Item 3790-101-235 per Provision 4 of Item 3790-001-001, Budget Act of 1990)	−129,000	

Item	Amount
(eu) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Chapter 1241/89, Section 4(c)(3)(A)	−171,000
(ev) Amount payable from the Habitat Conservation Fund (Transfer from Item 3790-101-262 per Provision 4 of Item 3790-001-001, Budget Act of 1990)	−52,000
(f) Amount payable from the Off-Highway Vehicle Fund (Item 3790-001-263)	−11,860,000
(g) Amount payable from the State Parks and Recreation Fund (Item 3790-001-392)	−79,534,000
(h) Amount payable from the State Parks and Recreation Fund, Fines and Forfeitures Account (Item 3790-001-394)	−805,000
(i) Amount payable from the Winter Recreation Fund (Item 3790-001-449)	−96,000
(j) Amount payable from the Roberti-Z'berg-Harris Urban Open-Space and Recreation Program Account (Item 3790-001-463)	−508,000
(k) Amount payable from the Harbors and Watercraft Revolving Fund (Item 3790-001-516)	−398,000
(*l*) Amount payable from the Parklands Fund of 1980 (Item 3790-001-721)	−223,000
(m) Amount payable from the Parklands Fund of 1984 (Item 3790-001-722)	−2,511,000
(n) Amount payable from the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974 (Item 3790-001-733)	−37,000
(nt) Amount payable from the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974 (Chapter 1241/89, Section 8)	−47,000
(o) Amount payable from the State, Urban and Coastal Park Bond Fund of 1976 (Item 3790-001-742)	−1,565,000

Item		Amount
(q) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Item 3790-001-786)		−723,000
(r) Amount payable from the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 (Public Resources Code Section 5907)		−607,000
(s) Amount payable from the Federal Trust Fund (Item 3790-001-890)		−1,779,000

Provisions:

1. 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.
2. Of the amount appropriated in this item $7,851,000 ($3,925,000 from category (b) of this item, plus $3,926,000 from category (g) of this item, as transferred from Item 3790-001-392), is for recurring and deferred maintenance projects. None of the $7,851,000 shall be spent for any purpose other than recurring and deferred maintenance projects.
3. Revenues shall be increased sufficiently in the 1991–92 fiscal year to obtain an additional $8,000,000 in revenues for the State Parks and Recreation Fund, from the following sources only:
   (a) State park system user fees.
   (b) State park system concessions and leases.
   (c) Other sources specifically authorized in statute.

   The department shall not obtain this additional revenue from any other source, including one-time transactions such as the sale of easements, unless it first obtains authorization in statute.

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		3,967,000

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	11,860,000
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	79,534,000
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	805,000
3790-001-449—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Winter Recreation Fund	96,000
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	508,000
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	498,000
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.	
3790-001-721—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the Parklands Fund of 1980	223,000
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	2,511,000
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	37,000
3790-001-742—For support of Department of Parks and Recreation, for payment to Item 3790-001-001, payable from the State, Urban and Coastal Park Fund	1,565,000
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)	723,000
Provisions: 1. Of the amount appropriated by this item, $439,000 shall be available to the Department of	

Item	Amount
Parks and Recreation for administrative costs for the local assistance grant programs specified in subdivision (a) of Section 5907 of the Public Resources Code.	
2. Of the amount appropriated by this item, $284,000 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	1,779,000
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	1,000,000
Provisions:	
1. 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.	
3790-011-263—For transfer to the General Fund, payable from the Off-Highway Vehicle Fund	(8,100,000)
Provisions:	
1. Of the amount transferred in the 1991–92 fiscal year from the Motor Vehicle Fuel Account, Transportation Tax Fund, to the Off-Highway Vehicle Fund pursuant to Section 8352.6 of the	

Item		Amount
Revenue and Taxation Code, the Controller shall transfer $8,100,000 to the General Fund.		
3790-101-262—For local assistance, Department of Parks and Recreation, payable from the Habitat Conservation Fund, to be available for expenditure during the 1991–92, 1992–93 and 1993–94 fiscal years		1,500,000
Schedule:		
(2) 50.20.262.805-Santa Lucia Mountain Range	1,500,000	
Provisions:		
1. The funds appropriated in this item shall be used for purposes consistent with the requirements of the Public Resources Account (Recreation), Cigarette and Tobacco Products Surtax Fund, and the Habitat Conservation Fund.		
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 1991–92, 1992–93 and 1993–94 fiscal years		10,065,000
Schedule:		
BLM-Yuma District		
(01) 35.02.002-Parker Strip O&M-1992	13,000	
BLM-Bakersfield District		
(02) 35.03.010-Bishop Resource Area O&M	50,000	
(03) 35.03.011-Hollister Resource Area O&M-1992	78,000	
BLM-CA Desert District		
(04) 35.06.047-Barstow Resource Area O&M-1992	200,000	
(05) 35.06.048-El Centro Resource Area O&M-1992	675,000	
(06) 35.06.049-El Mirage O&M-1992	525,000	
(07) 35.06.050-Ridgecrest Resource Area O&M-1992	150,000	
(08) 35.06.051-CDD-Access Acquisition	486,000	
(09) 35.06.052-Johnson Valley Access	500,000	
(10) 35.06.053-El Mirage Acquisition-1992	1,000,000	
(11) 35.06.054-El Mirage Development-1992	193,000	

Item	Amount
(12) 35.06.055-Glamis Access Ramp....	80,000
BLM-Susanville District	
(13) 35.09.005-Eagle Lake Resource Area O&M-1992	40,000
BLM-Ukiah District	
(14) 35.12.014-Arcata Resource Area O&M-1992.....	37,000
(15) 35.12.015-Clear Lake Resource Area O&M-1992	150,000
(16) 35.12.016-Redding Resource Area O&M-1992	83,000
(17) 35.12.017-Shasta Acquisition-1992	500,000
USFS-Angeles N.F.	
(18) 35.15.016-Forestwide O&M-1992	271,000
USFS-Cleveland N.F.	
(19) 35.18.010-Forestwide O&M-1992	78,000
USFS-Eldorado N.F.	
(20) 35.21.010-Forestwide O&M-1992	190,000
USFS-Inyo N.F.	
(21) 35.24.013-Forestwide O&M-1992.	130,000
USFS-Klamath N.F.	
(22) 35.27.016-Forestwide O&M-1992.	20,000
USFS-Lake Tahoe Basin	
(23) 35.30.007-LTBMU O&M-1992.....	153,000
(24) 35.30.008-Resource Management	71,000
(25) 35.30.009-Saxon High Meadow Trail.....	60,000
USFS-Lassen N.F.	
(26) 35.33.013-Forestwide O&M-1992.	192,000
(27) 35.33.014-Fredonyer Trailhead South.....	69,000
USFS-Los Padres N.F.	
(28) 35.36.020-Forestwide O&M-1992.	189,000
(29) 35.36.021-Historic Preservation Act Compliance	78,000
USFS-Mendocino N.F.	
(30) 35.39.012-Forestwide O&M-1992.	270,000
(31) 35.39.013-Pillsbury Basin Planning	27,000
(32) 35.39.014-Campground & Trail Reconstruction.....	50,000
USFS-Modoc N.F.	
(33) 35.40.002-Forestwide O&M-1992.	21,000
USFS-Plumas N.F.	
(34) 35.42.018-Forestwide O&M-1992.	263,000
(35) 35.42.019-Bucks Lake Staging Area.....	65,000

Item	Amount
(36) 35.42.020-Gold Lake Staging Area	197,000
(37) 35.42.021-La Porte Phase IV	30,000
(38) 35.42.022-Bucks Lake Admin. Station	5,000
USFS-San Bernardino N.F.	
(39) 35.45.016-Forestwide O&M-1992.	233,000
(40) 35.45.017-Highway 138 Tunnel	75,000
(41) 35.45.018-3N17-3N59 Planning	8,000
USFS-Sequoia N.F.	
(42) 35.48.016-Forestwide O&M-1992.	235,000
USFS-Shasta-Trinity N.F.	
(43) 35.49.003-Forestwide O&M-1992.	77,000
USFS-Sierra N.F.	
(44) 35.51.008-Forestwide O&M-1992.	210,000
(45) 35.51.009-Sierra Resource Improvements	86,000
(46) 35.51.010-Pineridge Winter Furbearer Study	58,000
USFS-Stanislaus N.F.	
(47) 35.54.008-Forestwide O&M-1992.	186,000
(48) 35.54.009-Mi-Wok Resource Management	35,000
(49) 35.54.010-Mi-Wok Planning	37,000
USFS-Tahoe N.F.	
(50) 35.57.009-Forestwide O&M-1992.	313,000
(51) 35.57.010-Foresthill OSV/OHV Trailhead	198,000
(52) 35.57.011-Tahoe Land Acquisition II	274,000
USFS-Toiyabe N.F.	
(53) 35.60.012-Carson District O&M-1992	120,000
(54) 35.60.013-Leavitt Lake OHV Planning	10,000
(55) 35.60.014-Sonora Pass Grooming Study	9,000
USFS-Pacific Southwest Region	
(56) 35.63.003-Regional OHV Coordinator-1992	139,000
Butte County	
(57) 35.65.002-Jonesville Enforcement-91/92	11,000
(57.1) 35.65.003-Butte County-O&M	11,000
Humboldt County	
(58) 35.67.005-Humboldt Resource Management-91/92	60,000

Item		Amount
Alpine County		
(59) 35.74.002-Alpine County OHV Enforcement-91/92	11,000	
North Tahoe P.U.D.		
(60) 35.76.004-NTRP O&M-91/92	30,000	
Santa Clara County		
(61) 35.78.004-Motorcycle Park O&M-91/92	156,000	
San Bernardino County		
(62) 35.79.007-Park Moabi O&M-91/92	15,000	
(63) 35.79.008-Moabi OHV Signage & Brochure	7,000	
Stanislaus County		
(64) 35.81.007-Stanislaus County O&M-91/92	76,000	
Bureau of Indian Affairs		
(65) 35.85.001-La Jolla Indian Reservation Regional OHV Park	70,000	
(66) 35.85.002-Tule River Indian Reservation Regional OHV Park	90,000	
City of Porterville		
(67) 35.86.001-Porterville O&M	36,000	

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 1991–92, 1992–93, and 1993–94 fiscal years.		11,510,000
Schedule:		
(1) 50.20.786.200-Per Capita Program grants	11,510,000	
3790-101-890—For local assistance, Department of Parks and Recreation, payable from the Federal Trust Fund, to be available for expenditure during the 1991–92, 1992–93 and 1993–94 fiscal years		2,825,000
Schedule:		
(1) 50.20.890-Land and Water Conservation Fund Act of 1965	2,500,000	
(2) 25.20.891-National Historic Preservation Act of 1966	325,000	

Item	Amount
3790-111-235—For transfer to the Habitat Conservation Fund, from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund for the Department of Parks and Recreation pursuant to Section 5923 of the Public Resources Code, in accordance with the following:	(3,500,000)
(1) 50.20.262-Habitat Conservation Program grants (2,000,000)	
(2) 50.20.262-Santa Lucia Mountain Range (1,500,000)	
Provisions:	
1. The funds transferred in this item shall be used for purposes consistent with the requirements of the 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	2,185,000
Schedule:	
(1) 90.EH.110-Hungry Valley SVRA: Initial Development—Construction 2,185,000	
3790-302-235—For transfer to the Habitat Conservation Fund, from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund for the Department of Parks and Recreation pursuant to Section 5923 of the Public Resources Code	(1,000,000)
Provisions:	
1. The funds transferred in this item shall be used for purposes consistent with the requirements of the Cigarette and Tobacco Products Surtax Fund and the Habitat Conservation Fund.	
3790-311-721—For capital outlay, Department of Parks and Recreation, for purpose of paying prior year deficiency caused by the transfer of funds to State Controller and State Treasurer for administrative costs, payable from the Parklands Fund of 1980	(2,000)
3790-311-722—For capital outlay, Department of Parks and Recreation, for purpose of paying prior year deficiency caused by the transfer of funds to State Controller and State Treasurer for administrative costs, payable from the Parklands Fund of 1984	(40,000)
3790-401—For the 1991–92 fiscal year, the balance as of July 1, 1991, 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	

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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.

3790-402—For the Department of Parks and Recreation: Section 5907(b)(1)(K) of the Public Resources Code, Frank's Tract State Recreational Area—Funds in this section may be allocated only if the project provides for (1) recreational benefits, (2) wetland habitat improvements, and (3) secondary wave protection for Bethel Island levees in accordance with levee protection priorities of the Bethel Island Municipal Improvement District.

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:

140—Environmental License Plate Fund

(1) Item 3790-301-140(1), Budget Act of 1990, 90.9Z.100, South Yuba Independence Trail: Bridge Replacement—Preliminary plans, working drawings and construction.

392—State Parks and Recreation Fund

(1) Item 3790-301-392(1), Budget Act of 1990, 90.AC.600, Old Sacramento SHP—Museum of Railroad Technology—Preliminary Plans

721—Parklands Fund of 1980

(1) Item 3790-301-721(1), Budget Act of 1988, as reappropriated by Item 3790-490-721(1), Budget Act of 1990, 90.C5.605, Carmel River SB: Day Use and Parking Lot Facilities—Preliminary Plans and Working Drawings.

(2) Item 3790-301-721(2), Budget Act of 1990, 90.H6.605, Cuyamaca Rancho SP: Rehabilitation and Replacement of Worn Out Facilities—Preliminary plans and working drawings.

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(3) Item 3790-301-721(4), Budget Act of 1990, 90.RS.245, Statewide: Archaeological Sites Rehabilitation—Minor Projects.

(4) Item 3790-301-721(5), Budget Act of 1990, 90.RS.255, Statewide: CCC Structures Historic Restoration—Minor Projects.

722—Parklands Fund of 1984

(1) Item 3790-301-722(5), Budget Act of 1989, as reappropriated by Item 3790-490-722(6), Budget Act of 1990, 90.FU.605, California Citrus SHP: Schematic Planning and Artifact Acquisition.

(2) Item 3790-301-722(6), Budget Act of 1989, as reappropriated by Item 3790-490-722 (7), Budget Act of 1990, 90.5M.605, China Camp SP: Rehabilitation and development of Day Use Facilities—Preliminary plans and working drawings.

(3) Item 3790-301-722(1), Budget Act of 1990, 90.6F.605, Angel Island SP: Seawall Reconstruction and Replacement—Preliminary plans and working drawings.

(4) Item 3790-301-722(1.1), Budget Act of 1990, 90.BA.105, Big Basin SP: Rehabilitation Sewage Collection System—Preliminary Plans, working drawings and construction.

(5) Item 3790-301-722(2), Budget Act of 1990, 90.GI.605, Crystal Cove SP: Sewer System Connection—Preliminary plans and working drawings.

(6) Item 3790-301-722(3), Budget Act of 1990, 90.F6.205, Los Encinos SHP: Completion of Garnier House—Minor Project.

(8) Item 3790-301-722(19) (c), Budget Act of 1986, as reappropriated by Item 3790-490, Budget Act of 1990, 90.F2.100, Gaviota SP: Campground and Day Use—Rehabilitation and Replacement of Worn-out Facilities—Construction.

(9) Item 3790-301-722(4), Budget Act of 1990, 90.7Q.610-Montara SB: Access Improvements—Working drawings

(10) Item 3790-301-722(26) Budget Act of 1987, as reappropriated by Budget Act of 1988, 1989, and 1990, 90.H9.100—San Diego Coast SB, South Cardiff—Day Use rehabilitation—working drawings and construction

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728—Recreation and Fish and Wildlife Enhancement Fund

(1) Item 3790-301-728(1), Budget Act of 1989, as added by Chapter 1241, Statutes of 1989, as reappropriated by Item 3790-490-728(1), Budget Act of 1990, 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

(2) Item 3790-302-786(5), Budget Act of 1989, as added by Chapter 1241/89, as reappropriated by Item 3790-490-786(5), Budget Act of 1990, 90.8L.505.890, State Indian Museum: Study Concept.

(3) Item 3790-301-786(1), Budget Act of 1990, 90.68.605, Benicia SRA: Land Restoration and Landfill Closure—Preliminary plans.

(4) Item 3790-301-786(1.1), Budget Act of 1990, 90.FU.600, California Citrus SHP: Orientation Center and Historic Structures—Preliminary plans, working drawings, and construction.

(5) Item 3790-301-786(1.2), Budget Act of 1990, Reimbursements (California Citrus SHP).

(5.5) Item 3790-301-786(4), Budget Act of 1990, 90.EC.100—Kenneth Hahn SRA: Continuing Ridge Area Development—Preliminary Plans, working drawings and development.

(6) Item 3790-301-786(6), Budget Act of 1990, 90.42.605, MacKerricher SP: Rehabilitation and Replacement of Worn Out Facilities—Preliminary plans and working drawings.

(7) Item 3790-301-786(7), Budget Act of 1990, 90.CN.605, Monterey SHP: Pacific House Exhibits and Artifacts—Preliminary plans and working drawings.

(7.5) Item 3790-301-786(8), Budget Act of 1990, 90.CN.110, Monterey SHP: Rehabilitation of Custom House Grounds and Beach Access/Causeway—Construction.

(8) Item 3790-301-786(11), Budget Act of 1990, 90.RS.240, Statewide: California Sno-Park Program—Minor Projects.

(9) Item 3790-301-786(18.5), Budget Act of 1990, 90.CS.200, Monterey SB: Sand City Dunes Restoration—Minor Projects.

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(10) Item 3790-301-786(19), Budget Act of 1990, 90.5N.100, Mount Diablo SP: Visitor Center Exhibits—Preliminary plans, working drawings, and construction.

Provisions:

1. For funds reappropriated in Category (1) of Item 3790-490, 721-Parklands Fund of 1980, the State Public Works Board may revert any unexpended funds if the Department of Parks and Recreation does not obtain the necessary Coastal Permits.

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 including all administrative costs as provided per the Budget Act of 1990, and shall be available for expenditure until June 30, 1992.

140—California Environmental License Plate Fund

(1) Item 3790-101-140(1), Budget Act of 1990, 50.20.140.903, California Academy of Sciences.

(2) Item 3790-101-140(2), Budget Act of 1990, 50.20.140.904, Alameda County, Oakland Museum, Aquatic Biology Hall.

(3) Item 3790-101-140(4), Budget Act of 1990, 50.20.140.907, City of Garden Grove, Orange Grove, Orange County, Twin Lakes Parks Pumping System.

(4) Item 3790-101-140(9), Budget of 1990, 50.20.140.912, City of Los Angeles, Harbor Regional Park, Machado Lake Plan.

(5) Item 3790-101-140(10), Budget Act of 1990, 50.20.140.913, Mariposa Mineral Exhibit Building.

(6) Item 3790-101-140 (2), Budget Act of 1987, 50.20.140.003 Sacramento County-American River Parkway Acquisition, soils mining operation, to be used for the following purpose:

(1) 50.20.140.003-Sacramento County-American River Parkway Acquisition, Acquisition and Development.

(7) 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

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3790-491-140 (1), Budget Act of 1989, and as reappropriated by Item 3790-491-140 (1), Budget Act of 1990, City of Walnut Creek Alexander Lindsay Junior Museum Association ($300,000).

036—Special Account for Capital Outlay

(1) Item 3790-102-036 (30), Budget Act of 1987, as added by Chapter 1408, Statutes of 1987, Section 11 50.20.036.092-Cudahy Community Pool, to be used for the following purpose:
   (1) 50.20.036.120—City of Cudahy, Sports Complex, (Los Angeles County).

(2) Item 3790-103-036 (4), Budget Act of 1987, as added by Chapter 1406, Statutes of 1987, Section 8 50.20.036.113—Cudahy Community Pool, to be used for the following purpose:
   (1) 50.20.036.120-City of Cudahy, Sports Complex, (Los Angeles County).

235—Public Resources Account, Cigarette and Tobacco Products Surtax Fund

(1) Item 3790-601-235, Budget Act of 1989 as added by Chapter 1241, Statutes of 1989, Section 4(c)(3)(PP), to be used for the following purpose:
   (1) 50.20.235.910—Westminister Parks, Edison Right of Way-(Orange County)-Development-Development of park facilities

(2) Item 3790-601-235, Budget Act of 1989 as added by Chapter 1241, Statutes of 1989, Section 4(c)(3)(D), to be used for the following purpose:
   (2) 50.20.235.911—City of Half Moon Bay-Coastside Park-Acquisition

722—Parklands Fund of 1984

(1) Item 3790-101-722 (a) (206), Budget Act of 1987, 50.20.722.915—City of San Diego, Chollas Park Project, to be used for the following purpose:
   (1) 50.20.722.901—City of San Diego, Tecolote Canyon, San Diego Co. (Category a).

3790-495—Reversion, Department of Parks and Recreation. As of June 30, 1991, 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:

263—Off-Highway Vehicles Fund

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(1) Item 3790-801-263(1), Chapter 1210/88, Section 2(a), 90.A7.400.880, Prairie City Off-Highway Vehicle Park—Acquisition.

392—State Parks and Recreation Fund

(1) Item 3790-823-392, Chapter 945/77, 80.80.018.003, Lake Tahoe Corridor.

721—Parklands Fund of 1980

(1) Item 3790-301-721(qq), Budget Act of 1982, Citrus Heritage Park, Mockingbird Canyon Project—acquisition and planning.

(2) Item 3790-302-721(2), Budget Act of 1989, as added by Chapter 1241/89, Section 9, 90.HI.405.890, Torrey Pines: Sunset Del Mar, acquisition.

(3) Item 3790-305-721(1), Budget Act of 1989, as added by Chapter 1241/89, Section 13, 90.GH.405.890, Latigo Shores, Acquisition.

722—Parklands Fund of 1984

(1) Item 3790-301-722(8.1), Budget Act of 1985, 90.FU.400.0, California Citrus SHP—Acquisition.

(2) Item 3790-301-722(20.1), Budget Act of 1985, 90.5N.400.000, Mount Diablo SP—Acquisition.

(3) Item 3790-301-722(4), Budget Act of 1989, 90.60.405, Bothe Napa Valley SP: Wright Property—Acquisition.

732—State Beach, Park, Recreational, and Historic Facilities Fund

(1) Item 573(b), Budget Act of 1980, 80.80.063.001, Relocation Assistance.

742—State, Urban, and Coastal Park Fund

(1) Item 508(i), Budget Act of 1979, 80.80.046.006, Santa Monica Mountains Zone, Backbone Trail, Viewshed of Malibu Creek SP and Stunt Road Zone.

(2) Item 585(k), Budget Act of 1980, 80.80.067.007, augmentation for land acquisition, condemnation proceedings for State, Urban, and Coastal Park Fund projects.

(3) Item 3790-301-742(1), Budget Act of 1984, 90.FZ.400, El Presidio de Santa Barbara SHP—Acquisition.

(4) Item 507.5B(a), as added to the Budget Act of 1979 by Ch. 372, Stats. 1980, Sec. 2.9B, Acquisition of land, leases, and other interest of land; acquisition and development of recreational facilities at Lake Elsinore SRA-provided that

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the reversion is limited to all funds in excess of $1,500,000.		
3790-496—Reversion, Department of Parks and Recreation. As of June 30, 1991, 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(18), Budget Act of 1989, 35.15.014 USFS Angeles National Forest, Valyermo Resource Protection.		
(2) Item 3790-101-263(43), Budget Act of 1989, 35.48.010 USFS Sequoia National Forest, Kern Plateau Trails Development.		
(3) Item 3790-101-263(56), Budget Act of 1989, 35.64.001 NPS Death Valley Forest, Trail Canyon Road Reconstruction.		
(4) Item 3790-101-263(30), Budget Act of 1990, 35.27.014 USFS Klamath National Forest, Goosenest O&M-1991.		
(5) Item 3790-101-263(61), Budget Act of 1990, 35.57.008 USFS Tahoe National Forest, Forestwide O&M-1991.		
(6) Item 3790-101-263(76), Budget Act of 1990, 35.82.002 Sierra County, Bassetts O&M-90/91.		
3810-001-001—For support of the Santa Monica Mountains Conservancy		199,000
Schedule:		
(a) 10-Santa Monica Mountains Conservancy	667,000	
(b) Trigger reduction	−4,000	
(c) Reimbursements	−40,000	
(d) Amount payable from the Santa Monica Mountains Conservancy Fund (Item 3810-011-941)	−424,000	
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		424,000
3810-301-262—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the Habitat Conservation Fund		10,000,000
Provisions:		
1. The funds appropriated in this item shall be used for purposes consistent with the requirements of the Habitat Conservation Fund and the Unallocated Account Cigarette and Tobacco		

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Products Surtax Fund.		
3820-001-001—For support of San Francisco Bay Conservation and Development Commission		1,675,000
Schedule:		
(a) 10-Bay Conservation and Development	2,270,000	
(b) Trigger reduction	−41,000	
(c) Reimbursements	−354,000	
(d) Amount payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund (Item 3820-001-164)	−200,000	
Provisions:		
1. The commission shall increase its permit fee schedule in 1991–92 to (1) recover a more reasonable level of its costs in processing permits in accordance with subdivision (c) of Section 66632 of the Public Resources Code and (2) offset fully the effects of inflation on the fees. The schedule shall be increased such that the percent of General Fund permitting costs recovered through fees is at least at the 20 percent level. In addition, it is the intent of the Legislature that the commission regularly update the fee schedule to offset the effects of inflation and to maintain a reasonable level of cost recovery.		
3820-001-164—For support of San Francisco Bay Conservation and Development Commission, for payment to Item 3820-001-001, payable from the Outer Continental Shelf Land Act, Section 8(g) Revenue Fund		200,000
3860-001-001—For support of Department of Water Resources		31,034,000
Schedule:		
(a) 10-Continuing Formulation of the California Water Plan	22,636,000	
(b) 20-Implementation of the State Water Resources Development System	1,304,000	
(c) 30-Public Safety and Prevention of Damage	21,929,000	
(d) 40-Services	4,291,000	
(e) 50.01-Management and Administration	47,672,000	
(f) 50.02-Distributed Management and Administration	−47,672,000	
(g) Reimbursements	−10,180,000	

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(gx) Unallocated trigger reduction....	−633,000
(h) Amount payable from the Special Account for Capital Outlay (Item 3860-001-036)	−100,000
(i) Amount payable from the California Environmental License Plate Fund (Item 3860-001-140).....	−300,000
(ix) Amount payable from the California Water Fund (Item 3860-001-144).....	−1,000,000
(jx) Amount payable from the Delta Flood Protection Fund (Item 3860-001-176, Budget Act of 1989 as reappropriated by Item 3860-490, Budget Act of 1991).....	−457,000
(k) Amount payable from the Environmental Water Fund (Item 3860-001-244)	−1,199,000
(*l*) Amount payable from the State Clean Water Bond Fund (Item 3860-001-740)	−61,000
(m) Amount payable from the Water Conservation and Water Quality Bond Fund (Item 3860-001-744) .	−255,000
(n) Amount payable from the Water Conservation Bond Fund of 1988 (Item 3860-001-790)	−679,000
(o) Amount payable from the Federal Trust Fund (Item 3860-001-890) ..	−1,981,000
(p) Amount payable from the Renewable Resources Investment Fund (Item 3860-001-940)	−2,281,000

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, 1992. Any unencumbered balances shall be returned to the appropriate funds as of June 30, 1992. Expenditures for technical services and general management charged to programs from all support appropriations for the Department of Wa-

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ter Resources in this act shall not exceed $20,591,000 and $22,428,000, respectively, without prior approval of the Department of Finance.	
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.....	100,000
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.....	300,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
3860-001-144—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the California Water Fund.....	1,000,000
3860-001-244—For support of Department of Water Resources, for payment to Item 3860-001-001, payable from the Environmental Water Fund.....	1,199,000
Provisions:	
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.	
2. Funds may be transferred, with the approval of the Department of Finance, between this item and Item 3860-101-244 of this act. The Director of Finance, shall report to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee within 30 days after authorizing any transfer pursuant to this provision.	
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.....	61,000
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.....	255,000

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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	679,000
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	1,981,000
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	2,281,000
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	(5,350,000)
3860-005-176—For transfer by the Controller from the Delta Flood Protection Fund to the General Fund	(2,000,000)
3860-006-144—For support of Department of Water Resources, payable from the California Water Fund, for transfer to the Environmental Water Fund	(8,000,000)
3860-011-144—For transfer by the Controller from the California Water Fund to the General Fund. Any remaining revenues left in the California Water Fund after the allocations set forth in Provision 1 shall be transferred to the General Fund by June 30, 1992.	
Provisions:	
1. The department is requested to transfer any available revenues from State Water Project funds to the California Water Fund. Notwithstanding any other provision of law, the order of priority for allocation from the California Water Fund shall be: (a) for state operations of the Department of Water Resources as appropriated in item 3860-001-144 ($1,000,000), (b) transfer to the Delta Flood Protection Fund to fund a trans-	

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	fer of $2,000,000 to the General Fund as provided by item 3860-005-176, (c) transfer to the Delta Flood Protection Fund sufficient funds to support state operation and local assistance appropriations of up to $10,000,000 to be spent in accordance with the provisions of the Delta Flood Protection Act of 1988 (Chapter 28, Statutes of 1988) as provided by items 3860-001-176 and 3860-101-176, (d) transfer to the Environmental Water Fund to fund $199,000 in expenditures for the Environmental Water Program from item 3860-001-244, (e) transfer to the Environmental Water Fund to fund $1,000,000 in expenditures for the Water Quality Program from item 3860-001-244, and (f) transfer to the Environmental Water Fund to Fund $6.8 million in expenditures for the Environmental Water Program from item 3860-101-244.	
3860-101-036—For local assistance, Department of Water Resources, Program 30.20—Flood Control Subventions, payable from the Special Account for Capital Outlay		29,750,000
	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 1991–92. 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 organization will hold and save the State of California free from damages or claims due to	

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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 expenditures and 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.	
3860-101-244—For local assistance, Department of Water Resources Program 10.20-New Sources of Water, payable from the Environmental Water Fund	6,800,000
Provisions:	
1. The funds appropriated in this item shall be spent in accordance with, and subject to, the provisions of the Environmental Water Quality Act of 1989 (Chapter 715, Statutes of 1989).	
2. Funds may be transferred, with the approval of the Department of Finance, between this item and Item 3860-001-244 of this act. The Director of Finance, shall report to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee within 30 days after authorizing any transfer pursuant to this provision.	
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	25,000,000

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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 15,807,000

3860-301-036—For capital outlay, Department of Water Resources, payable from the Special Account for Capital Outlay 9,358,000

Schedule:

(1) 30.95.010—Sacramento River Bank Project 1,800,000

(2) 30.95.080—Sacramento Urban Area Levee Rehabilitation 6,636,000

(3) 30.95.015.000—Fairfield Vicinity Streams Project 1,210,000

(4) 30.95.020.891—Cache Creek Settling Basin Project 1,012,000

(5) Reimbursements—Sacramento Urban Area Levee Rehabilitation —1,300,000

Provisions:

1. The amounts appropriated in categories (1) to (4), 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 (4), inclusive are also for advances to the federal government or payments to the federal government or others for incidental construction or re-

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	construction 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 categories (1) to (4), inclusive of this item include funding for preliminary plans, working drawings, construction supervision, contract administration, and other work activities to be performed by Department of Water Resources personnel in completion of the projects.	
	4. Notwithstanding any other provision of law, the State Public Works Board, subject to subdivision (d) of Section 13332.11 of the Government Code, may augment projects specified in categories 1 to 4, inclusive, up to a total of $1,102,000 for all of the projects.	
3860-490—Reappropriation, Department of Water Resources. The balance of the appropriations provided in the following citations are reappropriated for the purposes provided for in those appropriations, and shall be available for encumbrance and expenditure until June 30, 1992:		
	176—Delta Flood Protection Fund	
	(1) Item 3860-001-176, Budget Act of 1989	
	(2) Item 3860-101-176, Budget Act of 1989	
3940-001-001—For support of State Water Resources Control Board		20,566,000
Schedule:		
(a) 10-Water Quality	162,107,000	
(b) 20-Water Rights	9,314,000	
(c) 30.01-Administration	10,472,000	
(d) 30.02-Distributed Administration	−10,472,000	
(dx) Unallocated trigger reduction	−43,000	
(e) Reimbursements	−4,700,000	
(f) Amount payable from the Hazardous Waste Control Account, General Fund (Item 3940-001-014)	−766,000	
(g) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-193)	−25,717,000	

Item		Amount
(h)	Amount payable from the Environmental Protection Trust Fund (Item 3940-001-225)	−2,164,000
(i)	Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3940-001-235)	−780,000
(j)	Amount payable from the Bay Protection and Toxic Cleanup Fund (Item 3940-001-282)	−2,450,000
(k)	Amount payable from the Underground Storage Tank Tester Account (Item 3940-001-436)	−284,000
(*l*)	Amount payable from the Underground Storage Tank Cleanup Fund (Item 3940-001-439)	−70,355,000
(m)	Amount payable from the Underground Storage Tank Fund (Item 3940-001-475)	−1,206,000
(n)	Amount payable from the Surface Impoundment Assessment Account, General Fund (Item 3940-001-482)	−3,179,000
(o)	Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-740)	−549,000
(p)	Amount payable from the 1986 Water Conservation and Water Quality Bond Fund (Item 3940-001-744)	−299,000
(q)	Amount payable from the 1988 Clean Water and Water Reclamation Fund (Item 3940-001-764)	−782,000
(r)	Amount payable from the Federal Trust Fund (Item 3940-001-890)	−37,581,000

Provisions:

1. Notwithstanding any other provisions of law, upon approval and order of the Director of Finance, the State Water Resources Control Board may borrow sufficient funds, from special funds which otherwise provide support for the board, for cash purposes. Any such loans are to be repaid with interest at the Pooled Money Investment Account rate.
2. It is the intent of the Legislature that revenues to support the activities of the State Water Resources Control Board be derived, in part or in

Item	Amount
full, from various fees which the board is, or will be, authorized to collect. These fees may include a new or increased water rights fee.	
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	766,000
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..	25,717,000
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	2,164,000
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	780,000
3940-001-282—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Bay Protection and Toxic Cleanup Fund	2,450,000
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	284,000
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	70,355,000
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	1,206,000
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 1991–92 fiscal year. This surcharge shall be transmitted to the State Water Resources Control Board and deposited in this Underground Storage Tank Fund.	

Item	Amount
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	3,179,000
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	549,000
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	299,000
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	782,000
3940-001-890—For support of State Water Resources Control Board, for payment to Item 3940-001-001, payable from the Federal Trust Fund	37,581,000
3940-011-740—For transfer by the State 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	1,155,000
3940-101-744—For local assistance, State Water Resources Control Board, payable from the 1986 Water Conservation and Water Quality Bond Fund	13,700,000
3940-496—Reversion, State Water Resources Control Board. As of June 30, 1991, the unencumbered balance of the amount appropriated in SEC. 7(a), Chapter 1442, Statutes of 1989, shall revert to the Underground Storage Tank Cleanup Fund.	

HEALTH AND WELFARE

4100-001-496—For support of the State Council on Developmental Disabilities, payable from the Developmental Disabilities Service Account	25,000
4100-001-890—For support of the State Council on Developmental Disabilities, payable from the Federal Trust Fund	5,350,000
Schedule:	
(a) 10-State Council Operations	1,315,000
(b) 20-Community Program Development	1,182,000
(c) 30-Allocation to Area Boards	2,853,000

Item Amount

Provisions:

1. In the event federal funds are available to the state counci 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, the State Council shall transfer $250,000 to the Department of Developmental Services to support a comprehensive needs assessment.

4110-001-001—For support of Area Boards on Developmental Disabilities 0

Schedule:

(a) 10-Area Board Services	2,878,000
(b) Reimbursements	−2,878,000

Provisions:

1. Of the amount appropriated by this item, $73,000 shall be spent on the Partners in Policymaking project.

4120-001-001—For support of Emergency Medical Services Authority 1,302,000

Schedule:

(a) 10-Emergency Medical Services Authority	2,174,000
(b) Trigger reduction	−27,000
(c) Reimbursement	−335,000
(d) Amount payable from the Federal Trust Fund (Item 4120-001-890)..	−275,000
(e) Amount payable from the Emergency Medical Services Personnel Fund (Item 4120-001-312)	−235,000

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 pro-

Item	Amount

vide 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, 1991, 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.

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 235,000

4120-001-890—For support of Emergency Medical Services Authority, for payment to Item 4120-001-001, payable from the Federal Trust Fund 275,000

4120-101-001—For local assistance, Emergency Medical Services Authority, grants to local agencies 3,003,000

Schedule:

(a) 10-Emergency Medicial Services Authority 3,057,000
(b) Trigger reduction ..... −54,000

Provisions:

1. The General Fund support for poison control centers shall augment, but not replace, local expenditures 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.

Item		Amount
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		68,300,000
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item, no sooner than 30 days after notification in writing to the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.		
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 11755 of the Government Code.		
4140-001-001—For support of Office of Statewide Health Planning and Development		1,687,000
Schedule:		
(a) 10-Health Policy and Analysis	1,214,000	
(b) 25-Demonstration Projects	959,000	
(c) 30-Health Professions Development	3,611,000	
(d) 40-Facilities Development and Financing	26,479,000	
(e) 60-Health Facilities Data	8,118,000	
(f) 80.01-Administration	6,935,000	
80.02-Distributed Administration	−6,722,000	
(g) Unallocated trigger reduction	−29,000	
(h) Reimbursements	−213,000	
(i) Amount payable from the Hospital Building Account, Architecture Public Building Fund, (Item 4140-001-121)	−24,323,000	
(j) Amount payable from the California Health Data and Planning Fund (Item 4140-001-143)	−9,362,000	
(k) Amount payable from the Registered Nurse Education Fund (Item 4140-001-181)	−663,000	

Item		Amount
(*l*) Amount payable from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund, (Item 4140-001-232)	−474,000	
(m) Amount payable from the Health Facilities Construction Loan Insurance Fund (Health and Safety Code Section 436.26)	−2,273,000	
(n) Amount payable from the Minority Health Professions Education Fund (Education Code Section 69800)	−1,570,000	

Provisions:

1. During each month of the 1991–92 fiscal year, the department may encumber no more than 10 percent of the amounts appropriated in Item 4140-001-232 until (1) enactment of legislation appropriating moneys for state and local health programs from the Cigarette and Tobacco Products Surtax Fund, and (2) 30 days after the Department of Finance has submitted to the Joint Legislative Budget Committee and the legislative fiscal committees an expenditure plan for the moneys appropriated in Item 4140-001-232. The plan shall identify (a) the funding and personnel-years proposed for data management by OSHPD related to Proposition 99 funded programs, (b) workload information and other supporting information justifying the funding and personnel-years proposed for data management by OSHPD related to the Proposition 99 programs, and (c) the basis for the workload estimates.

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	24,323,000
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	9,362,000
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	663,000

Item		Amount
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		474,000
4140-101-001—For local assistance, Office of Statewide Health Planning and Development		2,765,000
Schedule:		
(a) 30-Health Professions Development (Family Physician Training)	2,880,000	
(b) Trigger reduction	−115,000	
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 1992–93, 1993–94 and 1994–95. The amount appropriated by this item shall only be used for such contracts which commence on or after July 1, 1992.		
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 1990 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.		
4170-001-001—For support of Department of Aging		4,767,000
Schedule:		
(a) 10-Nutrition	2,995,000	
(b) 20-Senior Community Employment Service	361,000	

Item		Amount
(c) 30-Supportive Services and Centers	2,135,000	
(d) 40-Special Projects	4,578,000	
(e) 50.01-Administration	5,626,000	
(f) 50.02-Distributed Administration	−5,626,000	
(g) Unallocated trigger reduction	−93,000	
(h) Reimbursements	−1,994,000	
(i) Amount payable from the Federal Trust Fund (Item 4170-001-890)	−3,215,000	

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 3,215,000

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.

Item			Amount
4170-101-001—For local assistance, Department of Aging			29,441,000
Schedule:			
(a) 10-Nutrition		61,782,000	
(1) 10.10-Congregate nutrition	39,992,000		
(2) 10.20-Home delivered nutrition	21,790,000		
(b) 20-Senior Community Employment Service		5,616,000	
(c) 30-Supportive Services and Centers (for match)		30,471,000	
(d) 40-Special Projects		28,772,000	
(e) Unallocated trigger reduction		−1,227,000	
(f) Reimbursements		−12,567,000	
(g) Amount payable from the Federal Trust Fund (Item 4170-101-890)		−83,406,000	
Provisions:			
1. Provision 1 of Item 4170-001-001 is also applicable to this item.			
2. 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.			
4170-101-890—For local assistance, Department of Aging, for payment to Item 4170-101-001, payable from the Federal Trust Fund			83,406,000
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 U.S. Department of Agriculture and for funds allocated to Area Agencies on Aging for federal Title III one-time-only allocations in accordance			

Item		Amount
with subdivision (c) of Section 9315 of the Welfare and Institutions Code.		
4170-111-939—For local assistance, Department of Aging, Program 10.10—Congregate Nutrition, payable from the Nutrition Reserve Fund		400,000
Provision:		
2. Notwithstanding any other provision of law, the $400,000 appropriated in this item shall be used for the Nutrition Program.		
4180-001-001—For support of Commission on Aging		253,000
Schedule:		
(a) 10-Commission on Aging	495,000	
(b) Amount payable from the Federal Trust Fund (Item 4180-001-890)	−242,000	
4180-001-890—For support of Commission on Aging, for payment to Item 4180-001-001, payable from the Federal Trust Fund		242,000
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		5,524,000
Schedule:		
(a) 10-Alcohol Program	10,511,000	
(b) 20-Drug Program	15,116,000	
(c) 30.01-State administration	8,350,000	
(d) 30.02-State administration—distributed	−7,869,000	
(e) Reimbursements	−799,000	
(f) Amount payable from Drinking Driver Program Licensing Trust Fund (Item 4200-001-139)	−1,164,000	
(g) Amount payable from Methadone Program Licensing Trust Fund (Item 4200-001-243)	−581,000	
(h) Amount payable from Audit Repayment Trust Fund (Item 4200-001-816)	−100,000	
(i) Amount payable from the Federal Trust Fund (Item 4200-001-890)	−17,940,000	
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.		

Item	Amount
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	1,164,000
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	581,000
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	17,940,000

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.

4200-101-001—For local assistance, Department of Alcohol and Drug Programs	71,458,000

Schedule:

(a) 10-Alcohol Program	84,291,000
(b) 20-Drug Program	138,883,000
(c) 25-Pilot Project Combined Services Program	30,707,000
(d) Unallocated trigger reduction	−2,977,000
(e) Reimbursements	−9,833,000
(g) Amount payable from the Federal Trust Fund (Item 4200-101-890)	−169,469,000
(h) Amount payable from Resident-Run Housing Revolving Fund. (Item 4200-101-977)	−144,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4200-001-001.
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.

Item	Amount

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 federal funds for each day either the plan or cost report, or both is delinquent beyond November 15, 1991. 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. Notwithstanding the amount designated for the unallocated trigger reduction in this item, counties shall not reduce the funding for women-specific services.
6. The Department of Alcohol and Drug Programs shall require county offices of alcohol and drug programs that receive funding for Waiting List Reduction Grant Programs to give first priority for the continuation of non-methadone treatment programs.
7. Priority for the establishment of new Friday Night Live and Club Live Programs shall be given to high-risk schools and their surrounding communities.

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 169,469,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this appropriation and Item 4200-001-890.
2. The Director of the Department of Finance may authorize the transfer of the Local Assistance Federal Block Grant Fund appropriation between the Alcohol Program and the Drug

Item	Amount

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 either the plan or cost report, or both is delinquent beyond November 15, 1991. 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. 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 must expend in Fiscal Year 1991–92, at a minimum, the amount expended in Fiscal Year 1990–91 for the continuation of the waiting list programs initiated in Fiscal Year 1989–90. The counties may request of 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 enhanced by using other drug treatment programs, or if there is no longer a need for expended waiting list programs.
7. Those counties that are participating in the pilot project, "Services for Alcohol and Drug Abusing

Item		Amount
	Pregnant and Parenting Women and Their Infants", may provide case management and alcohol and drug treatment to women outside the pilot project catchment area, but women within the catchment area shall have priority for services.	
4200-101-977—For local assistance, Department of Alcohol and Drug Programs, for payment to Item 4200-101-001, payable from the Resident-Run Housing Revolving Fund		144,000
	Provisions:	
	1. To the extent that moneys available in the Resident-Run Housing Revolving Trust 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 and loan repayments to the Resident-Run Housing Revolving Trust Fund are sufficient to create additional allocation workload, the Director of Finance may authorize expenditures for the Department of Alcohol and Drug Programs 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.	
4200-102-001—For local assistance, Department of Alcohol and Drug Programs, for perinatal substance abuse treatment programs		17,000,000
	Schedule:	
	(a) 25-Pilot Project Combined Services Program 25,680,000	
	(b) Trigger reduction ..... −680,000	
	(c) Reimbursements ..... −8,000,000	
	Provisions:	
	1. This appropriation shall be available for encumbrance until June 30, 1993.	
	2. Up to $2,192,000, including $63,000 from reimbursements, may be transferred from this item to Item 4200-001-001 for support costs associated with the perinatal substance abuse treatment programs.	

Item			Amount
4200-102-816—For transfer by the State Controller from the unencumbered balance of Audit Repayment Trust Fund as of June 30, 1991, to the General Fund			(1,100,000)
4220-001-001—For support of Child Development Programs Advisory Committee appointed pursuant to Section 8254 of the Education Code			259,000
Schedule:			
(a) 10-Continuing program costs		265,000	
(b) Trigger reduction		−6,000	
4260-001-001—For support of Department of Health Services			172,566,000
Schedule:			
(1) 10-Public and Environmental Health		121,298,000	
(2) 20-Health Care Services		273,980,000	
(3) 30.01-Departmental Administration		59,371,000	
(4) 30.02-Departmental Administration Distributed		−52,211,000	
(5) Unallocated trigger reduction		−3,858,000	
(6) Reimbursements		−14,596,000	
(7) Reimbursements (Toxics)		−3,477,000	
(8) Amount payable from the Hazardous Waste Control Account, General Fund (Item 4260-001-014)		−8,961,000	
(9) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 4260-001-044)		−352,000	
(10) Amount payable from the Water Device Certification Special Account (Item 4260-001-129)		−118,000	
(11) Amount payable from the AIDS Vaccine Research and Development Grant Fund (Item 4260-001-135)		−206,000	
(12) Amount payable from the Vital Records Improvement Project Fund (Item 4260-001-137)		−1,719,000	
(13) Amount payable from the Outer Continental Shelf Land Act Sec. 8(g) Revenue Fund (Item 4260-001-164)		−210,000	
(14) Amount payable from the Food Safety Fund (Item 4260-001-177)		−3,128,000	

Item		Amount
(15)	Amount payable from the Environmental Laboratory Improvement Fund (Item 4260-001-179).	−1,941,000
(16)	Amount payable from the Genetic Disease Testing Fund (Item 4260-001-203)	−39,747,000
(17)	Amount payable from the Low-Level Radioactive Waste Disposal Fund (Item 4260-001-227).	−1,300,000
(18)	Amount payable from Health Education Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-231)	−1,464,000
(19)	Amount payable from Hospital Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-232)	−1,268,000
(20)	Amount payable from Physician Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-233)	−428,000
(21)	Amount payable from the Research Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-234)	−1,733,000
(22)	Amount payable from Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-236)	−899,000
(23)	Amount payable from the Large Water Systems Account, General Fund (Item 4260-001-302)	−4,002,000
(24)	Amount payable from the Registered Environmental Health Specialist Fund (Item 4260-001-335)	−269,000
(25)	Amount payable from the Hazardous Substance Subaccount, General Fund (Item 4260-001-455)	−5,904,000
(26)	Amount payable from the Mosquitoborne Disease Surveillance Account (Item 4260-001-478)	−36,000
(27)	Amount payable from the Disproportionate Share and Emergency Services Fund (Item 4260-001-693)	−109,000

Item		Amount
(28)	Amount payable from the California Alzheimer's and Related Disorders Research Fund (Item 4260-001-823)	−588,000
(29)	Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−3,517,000
(30)	Amount payable from the Federal Trust Fund (Item 4260-001-890).	−130,025,000
(31)	Amount payable from the Local Health Capital Expenditure Account, County Health Services Fund (Item 4260-001-900)	−17,000

Provisions:

1. Funds for state services, administration, research and training projects as identified as Special Projects of the 1991–92 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 1991–92 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, 1991, 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 $45.36 per bed. Effective July 1, 1991, the annual fee for a skilled nursing facility, intermediate care facility, or inter-

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mediate care facility for the developmentally disabled is $187.87 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 20.1 percent effective July 1, 1991.

Notwithstanding subdivision (b) of Section 116 of the Health and Safety Code, departmental fees subject to the annual fee adjustment pursuant to subdivision (a) of Section 116 of the Health and Safety Code, as added by Chapter 327 of the Statutes of 1982, shall be increased by 10.1 percent effective July 1, 1991.

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 1991 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. It is the intent of the Legislature that the Office of the State Registrar be fully supported by fees.
6. Of the new positions funded by this item, the Department of Health Services shall use 7.5 positions to analyze and implement program initiatives to convert state-funded programs to Medi-Cal programs. The Department of Health Services shall give priority to the following proposals:
   (a) Establishing personal care as a Medi-Cal benefit.
   (b) Expanding the Early Periodic Screening, Diagnosis, and Treatment Program.
   (c) Providing out-of-clinic rehabilitation services through the Department of Mental Health.
   (d) Expanding Medi-Cal payment of services provided by the California Children's Services program.

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The Department of Health Services shall provide information during budget hearings on the 1992–93 budget proposal regarding the progress in analyzing and implementing these program initiatives. In addition, the Department of Health Services shall provide information to the legislative fiscal committees on August 1, 1991, and January 10, 1992, on the amount of Medi-Cal reimbursements provided to school districts.

7. It is the intent of the Legislature that the costs of the Food Safety Program, as authorized by Chapter 1200 of the Statutes of 1989, be entirely supported by fees.
8. It is the intent of the Legislature that the General Fund portion of the Laboratory Field Services Program be entirely supported by fees.
9. In recognition of the $1,833,000 augmentation appropriated for support of the California Children's Services (CCS) program, the Department of Health Services shall:
   (a) Maximize Medi-Cal reimbursement of CCS services by providing training to county and state staff on the conditions making CCS children eligible for SSI/SSP pursuant to recent eligibility changes, using General Fund or county funds to pay for a CCS family's Medi-Cal share of cost (SOC) when payment of the SOC results in General Fund or county fund savings, and expanding Medi-Cal reimbursement of therapy services provided to CCS children. The Department of Health Services shall provide information to the legislative fiscal committees by January 2, 1992, on the status of the efforts to maximize these Medi-Cal reimbursements and any legislative changes needed in order to further the intent of this subdivision.
   (b) Provide information to the legislative fiscal committees by January 2, 1992, on the programmatic and fiscal implications of requiring CCS-approved treatment centers to pay the Department of Health Services a fee that supports the Department of Health Services' costs of reviewing and monitoring the provider's status as a CCS treatment center.

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(c) Provide information to the legislative fiscal committees by January 2, 1992, on the extent of backlog in dependent county claims and cases, and the case management ratio existing on July 1, 1991, and on December 15, 1991.

(d) Provide information to the legislative fiscal committees by January 2, 1992, in consultation with the Department of Education and the Department of Developmental Services, on the feasibility of designating CCS the single program responsible for providing therapy to children eligible for therapy services pursuant to CCS, special education and regional center requirements, and requiring other state and local programs to reimburse the CCS program for therapy services provided pursuant to eligibility requirements applying to those programs.

(e) Provide information to the legislative fiscal committees by January 2, 1992, on the programmatic and fiscal implications of changing statutory provisions to apply existing financial eligibility requirements to therapy services.

(f) Provide information to the legislative fiscal committees by January 2, 1992, on the computer system under development, the ability of the independent counties to integrate their data and billing into the system of the Department of Health Services, and the types of data that will be retrievable.

(g) Encourage counties to submit claims monthly as part of the administrative standards adopted by the Department of Health Services in consultation with the counties.

(h) Provide information to the legislative fiscal committees by March 15, 1992, on the number of fair hearings requested and granted.

11. During each month of the 1991–92 fiscal year, the department may encumber no more than 10 percent of the amounts appropriated in Items 4260-001-231, 4260-001-232, 4260-001-233, and 4260-001-236, until (1) enactment of legislation appropriating moneys for state and local health programs from the Cigarette and To-

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bacco Products Surtax Fund, and (2) 30 days after the Department of Finance has submitted to the Joint Legislative Budget Committee and the legislative fiscal committees an expenditure plan for the funds appropriated in these items. After these conditions have been met, the department may encumber any remaining funds appropriated in Items 4260-001-231, 4260-001-232, 4260-001-233, and 4260-001-236.

The expenditure plan shall identify (a) the funding and personnel-years proposed from each account in Cigarette and Tobacco Products Surtax Fund for support of each Proposition 99 related-program, (b) workload information and other supporting information justifying the funding and personnel-years proposed for support of each Proposition 99 program, and (c) the basis for the workload estimates.

12. The Department of Health Services shall attempt to distribute the trigger-related reductions and any other unallocated reductions in state operations in proportion to each programs General Fund share of the total appropriation. If a disproportionate share is proposed in any particular program in order to preserve federal matching funds, fee supported services or for any other reason, the legislative fiscal committees shall be notified 30 days before implementation.

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 8,961,000

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.

Item	Amount
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	352,000
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	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	206,000
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	1,719,000
4260-001-164—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Outer Continental Shelf Land Act Section 8(g) Revenue Fund	210,000
4260-001-177—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Food Safety Fund	3,128,000
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	1,941,000
4260-001-203—For support of Department of Health Services, for payment to Item 4260-001-001, payable from the Genetic Disease Testing Fund 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.	39,747,000
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 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.	1,300,000

Item	Amount
2. Upon the request of the Department of Health Services and the approval of the Director of Finance, a General Fund loan up to $900,000 shall be made to the Low-Level Radioactive Waste Disposal Fund. The loan shall be repaid, on or before March 31, 1993, from the Low-Level Radioactive Waste Disposal Fund to the General Fund, with interest to be determined in accordance with Section 16314 of the Government Code.	
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.....	1,464,000
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.....	1,268,000
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.....	428,000
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.....	1,733,000
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.....	899,000
4260-001-302—For support of the Department of Health Services, for payment to Item 4260-001-001, payable from the Large Water Systems Account, General Fund.....	4,002,000
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.....	269,000
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 Registered Environmental Health Specialist Fund.	

Item	Amount
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	5,904,000

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	36,000
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	109,000

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 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.

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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 payment to Item 4260-001-001, payable from the California Alzheimer's and Related Disorders Research Fund	588,000
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's 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	130,025,000
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	17,000
Provisions:	
1. The limitations of Item 9840-001-988 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Local Health Capital Expenditure Account.	

Item	Amount
4260-002-942—For support of Department of Health Services, payable from the Health Facilities Citation Penalties Account, Special Deposit Fund	1,000,000
4260-005-137—Notwithstanding any other provision of law, the State Controller shall transfer $12,700,000 from the Vital Records Improvement Project Fund to the General Fund	(12,700,000)
4260-005-890—For support of Department of Health Services, payable from the Federal Trust Fund....	108,877,000
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 1991–92 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.	
4260-005-900—For transfer by the State Controller from the Local Health Capital Expenditure Account of the County Health Services Fund unencumbered balance as of June 30, 1991, to the General Fund	(2,474,000)
4260-007-890—For support of Department of Health Services, payable from the Federal Trust Fund....	18,089,000
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.	
4260-009-001—For transfer by the State Controller from the General Fund to the Low-Level Radioactive Waste Disposal Fund	(400,000)
Provisions:	
1. A General Fund loan of $400,000 shall be made to the Low-Level Radioactive Waste Disposal Fund. The loan shall be repaid during 1992–93, with interest to be determined in accordance with Section 16314 of the Government Code.	

Item		Amount
4260-009-227—For support, Department of Health Services, Program 10—Public and Environmental Health		400,000
Provisions:		
1. The amount appropriated in this item shall be designated for the purposes of implementing a prudency audit of the license designee's costs and the implementation of Section 25812.7 of the Health and Safety Code.		
4260-011-014—For support of Department of Health Services (Toxic Substances Control Program), payable from the Hazardous Waste Control Account		39,851,000
Schedule:		
(a) 12.10-Site Mitigation	44,068,000	
(b) 12.20-Permitting	15,815,000	
(c) 12.30-Surveillance and Enforcement	19,344,000	
(d) 12.40-Alternative Technology	12,521,000	
(e) 12.50.001-Program Direction and Support	16,215,000	
(f) 12.50.002-Distributed Program Direction and Support	−16,573,000	
(g) Reimbursements	−1,943,000	
(i) Amount payable from Hazardous Substance Account (Item 4260-011-455)	−29,526,000	
(j) Amount payable from Federal Trust Fund (Item 4260-011-890)	−20,070,000	
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. Of the amount appropriated in this item, $291,000 shall be used to purchase a data management system. The department shall not encumber any of these funds sooner than 30 days		

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after submitting to the Joint Legislative Budget Committee and the legislative fiscal committees a summary of the findings of the California State University's (CSU) evaluation of the data management needs of the Toxic Substances Control Program, a description of the specific equipment proposed to be purchased, the costs of the equipment, and the basis for the cost estimate, and, if applicable, the reasons for selecting any equipment that is not specifically recommended by the CSU study. The summary of the CSU study shall identify the problems with the program's current data management system, the results of the CSU's assessment of the program's data management needs, the options considered for meeting the program's data management needs, and the selected option for organizing and unifying the programs's record keeping system.

4. The Department of Health Services 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 Integrated Site Mitigation Process (ISMP), 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 of the Health and Safety Code, until those activities are consistent with that chapter and the Department of Health Services 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

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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 of Health Services shall notify the public of the availability of these documents through mailings to the same individuals and entities identified in subdivision (b) of this provision and press releases to the written and electronic media.

5. Notwithstanding the requirements contained in Provision 4, the Department of Health Services may initiate no more than 20 pilot projects to evaluate one or more components of the ISMP. The Department of Health Services may initiate pilot projects, without prior legislative notification, at up to 10 sites. The Department of Health Services may initiate pilot projects at more than 10 sites, but at no more than 20 sites, 30 days after submitting to the Legislature a description of the 10 pilot projects that have been initiated and the pilot projects that are proposed to be initiated. The Department of Health Services shall submit this information to the Joint Legislative Budget Committee, the legislative fiscal committees, the Assembly Environmental Safety and Toxic Materials Committee, and the Senate Toxics and Public Safety Committee. Any pilot project undertaken by the Department of Health Services shall include the following requirements:

(a) Any responsible party or parties participating in a pilot project shall enter into an enforceable agreement with the Department of Health Services. These agreements shall contain the same requirements the Department of Health Services includes in current agreements under the existing program, except those components of the ISMP that are being evaluated as part of the pilot project.

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(b) All enforceable agreements executing pilot programs shall contain a provision for the department to approve the remedial action plan pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(c) The Department of Health Services shall conduct a post-audit inspection and review of any phase of a site investigation or remediation that is the subject of a pilot project to verify the work performed prior to certifying that the phase has been completed.

(d) Any pilot project activities carried out shall be fully evaluated by the Department of Health Services. The result of these evaluation(s) shall be provided as part of the required legislative notification of the Department of Health Services' intent to fully implement the ISMP.

Upon the satisfactory completion of the actions set forth in this provision, the Department of Health Services 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 ISMP.

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 29,526,000

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.

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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		20,070,000
4260-012-455—As of June 30, 1991, the State Controller shall transfer $3,600,000 for the purpose of a loan to the Hazardous Waste Control Account. The entire loan of $3,600,000 shall be repayed to the Hazardous Substance Account by June 30, 1992		(3,600,000)
4260-012-826—Notwithstanding any other provision of law, the State Controller shall transfer up to $7,238,000 for reimbursement of the Pooled Money Investment Account, authorized by Government Code, Section 16312, to the Hazardous Substances Cleanup Fund, as of June 30, 1991		(7,238,000)
4260-013-455—As of July 1, 1991, the State Controller shall transfer $4,000,000 for the purpose of a loan to the Hazardous Waste Control Account. The entire loan of $4,000,000 shall be repaid to the Hazardous Substance Account by June 30, 1992		(4,000,000)
4260-015-455—For support of Department of Health Services (Toxic Substances Control Program), payable from the Hazardous Substance Account, General Fund		5,375,000
Schedule:		
(1) 12.10.030.065-Unforeseen Removals	500,000	
(2) 12.10.030.070-Enforcement Support	500,000	
(3) 12.10.030.075-Gardena Symps	100,000	
(4) 12.10.030.080-Mobile Smelting	500,000	
(5) 12.10.030.085-United Metal Recovery	750,000	
(6) 12.10.030.090-McColl	270,000	
(7) 12.10.030.095-Westminster Tract 2633	50,000	
(8) 12.10.030.100-Frontier Fertilizer	500,000	
(9) 12.10.030.105-Chatham Brothers Barrel Yard	750,000	
(10) 12.10.030.110-McCormick and Baxter	300,000	
(11) 12.10.030.115-Selma Pressure Treating	1,000,000	
(12) 12.10.030.120-Chico Groundwater-Phase 1	155,000	

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Provisions:

1. Notwithstanding Section 6.50 and Section 28.00 of this act, the Director of the Department of Health Services may transfer amounts to or from projects scheduled in this item, however, no project schedule shall be increased by more than $100,000 under this provision.
2. The Director of the Department of Health Services may schedule additional projects, remove scheduled projects, or transfer amounts in excess of $100,000 from project to project. Any such adjustments may not be authorized sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, the chairperson of the policy committee of the Assembly designated by the Speaker of the Assembly, and the chairperson of the policy committee of the Senate designated by the Senate Rules Committee, unless the Department determines that an earlier action is necessary to prevent or mitigate the threat of an imminent and substantial endangerment to public health or the environment resulting from current conditions at a hazardous substance release site.
3. The Director of the Department of Health Services shall report not later than 30 days after each calendar quarter to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the respective policy committees of the Senate and Assembly, any actions taken under Provision 1 and 2 of this item for which prior notification has not been provided.

4260-016-826—Notwithstanding any other provision of law, the State Controller shall, upon approval by the Department of Finance, transfer up to $32,000,000, but not less than $20,000,000, from the Superfund Bond Trust Fund to the General Fund as of July 2, 1991 ..... (32,000,000)

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 5,527,328,000

Schedule:

(a) 20.10.030-Benefits (Medical Care and Services) 11,334,832,000

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(b)	20.10.010-Eligibility (County Administration)	435,415,000
(c)	20.10.020-Fiscal Intermediary Management	68,914,000
(e)	Amount payable from the Disproportionate Share and Emergency Services Fund (Item 4260-101-693)	−72,000,000
(f)	Amount payable from the Federal Trust Fund (Item 4260-101-890)	−6,072,684,000
(g)	Amount payable from Federal Trust Fund (Item 4260-103-890)	−13,801,000
(h)	Amount payable from the State Legalization Impact Assistance Grant (Allocation from Section 23.50)	−153,348,000

Provisions:

1. The aggregate principal amount of disproportionate share hospital general obligation debt which may be issued in 1991–92 pursuant to Section 14085.5(f)(2)(A) of the Welfare and Institutions Code shall not exceed $50 million.
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 trans-

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ferred as needed to the Health Care Deposit Fund to meet cash needs. Such loans are subject to repayment provisions of Section 16351 of the Government Code. Any additional loan requirement in excess of $45 million shall be processed in the manner prescribed by Section 16351 of the Government Code.

5. Notwithstanding any other provision of law, the Director of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased costs in the Medi-Cal program only after approval by the Department of Finance as to the availability of funds; and any rule or regulation adopted by the Director of Health Services and any communication which revises the Medi-Cal program shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.
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.

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9. Contracts negotiated between the Drug Discount Program and pharmaceutical manufacturers to add drug products to, or delete drug products from, the Medi-Cal list of contract drugs shall be submitted to the Department of Finance for concurrence in their fiscal impact and for determination that sufficient funds are available prior to the effective date of the contract.
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.

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12. Amounts identified as abatements to the county medical services program for retroactive aid to the Totally Dependent Program claims shall be transferred from the Health Care Deposit Fund to the county medical services program without regard to fiscal year.
13. The Department of Finance may transfer funds representing all or any portion of any estimated savings which are a result of improvements in the Medi-Cal claims processing procedures, from the Medi-Cal services budget or the support budget of the Department of Health Services (Item 4260-001-001) to the fiscal intermediary budget item for purposes of making improvements to the Medi-Cal claims system.
14. The 1991–92 fiscal year accrual shall be posted on a one-time basis at year-end to cover all services provided before or during the 1991–92 fiscal year.

4260-101-693—For local assistance, Department of Health Services, for payment to Item 4260-101-001, payable from the Disproportionate Share and Emergency Services Fund 72,000,000

Provisions:

1. Notwithstanding any other provision of law, any other moneys available in the Disproportionate Share and Emergency Services Fund after the appropriation made by Item 4260-001-693 of this Act, also 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 provision 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 6,072,684,000

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 13,801,000

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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 State Controller upon enactment in accordance with the following schedule		63,111,000
Schedule:		
(a) 20.10.030-Benefits (Medical Care and Services), for transfer to Item 4260-101-001	63,111,000	
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 State Controller upon enactment in accordance with the following schedule		63,825,000
Schedule:		
(a) 20.10.30-Benefits (Medical Care and Services) (for transfer to Item 4260-101-890)	63,825,000	
4260-111-001—For local assistance, Department of Health Services		246,764,000
Schedule:		
(a) 10.30.040-Chronic Diseases	6,289,000	
(b) 10.30.050-Infectious Diseases	5,217,000	
(c) 10.30.060-AIDS	49,280,000	
(d) 20.30-Rural and Community Health	352,246,000	
(e) 20.40-Family Health Services	517,069,000	
(f) Reimbursements-Family Health Services, WIC Rebates and Recoveries	−103,709,000	
(g) Reimbursements—Family Health Services, CCS and GHPP Program Co-Payments	−4,890,000	
(h) Reimbursements—Rural and Community Health, County Medical Services Program	−86,778,000	
(i) Amount payable from the Vital Records Improvement Fund (Item 4260-111-137)	−300,000	
(j) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−240,640,000	
(k) Amount payable from the Federal Trust Fund (Item 4260-111-890)	−247,020,000	

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Provisions:

1. Program 10.30.060-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 Department of General Services prior to their execution.
   (b) The Department of Health Services shall provide information, upon request, to the legislative fiscal committees and the Joint Legislative Budget Committee, on (1) the criteria, and (2) the protocol it will use to determine whether or not to add newly approved FDA drugs to the AIDS Drug Subsidy Program Formulary.
   (c) The Department of Health Services, Office of AIDS, shall require counties that receive funds from the county block grants to include members of affected and high-risk communities in the process used to make decisions regarding allocations and shall require the County of San Diego to consider using these funds for a telephone hotline at the San Diego AIDS Foundation.
   (d) The Department of Health Services, Office of AIDS may subsidize the health insurance premiums for persons who are eligible to receive AIDS drug treatment under the

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AIDS Drug Program, under the following conditions:

(a) the eligible person's health insurance covers drug treatments available through the AIDS Drug Program and

(b) the annual cost of the health insurance premiums not exceed the annual cost of providing AIDS drugs for the eligible person.

2. Program 20.30-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.

(c) 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.

(d) Notwithstanding any other provisions of law, any money recovered for previously paid health care services and interest 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.

(e) 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

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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 according to the same procedures and requirements that govern funds made available pursuant to subdivision (d) of Section 16703 of the Welfare and Institutions Code.

3. Program 20.40-Family Health Services:

(a) 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.

(b) Notwithstanding the provisions of Section 28.00 of this Act, the Department of Fi-

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nance, upon request by the Department of Health Services, may authorize and approve a budget revision to augment schedule (f) Family Health Services, WIC Rebates and Recoveries, in this item for any additional rebate moneys or recoveries which become available for the Women, Infants, and Children (WIC) Supplemental Food Program during this fiscal year.		
(c) It is the intent of the Legislature that the Department of Health Services negotiate for the lowest possible price for Norplant. The Department of Health Services shall inform the Legislature by January 1, 1992, as to the numbers of family planning clients being supplied with Norplant, the estimated amount of funds that have been expended, and the estimated expenditures for the remainder of the fiscal year. If the funds appropriated are estimated to be in excess of the amount necessary, the Department of Health Services shall redirect the funds into other family planning projects.		
(d) The Department of Health Services shall take all necessary steps to ensure that family planning funds unexpended at the end of fiscal year 1991–92 be redistributed to the 1991–92 family planning contract agencies.		
(e) Of the amount appropriated in this item for Program 20.40—Family Health Services, $7,000,000 shall be available for the state to backfill the currently jeopardized federal funding for family planning clinics.		
4260-111-137—For local assistance, Department of Health Services, for payment to Item 4260-111-001, payable from the Vital Records Improvement Project Fund		300,000
4260-111-890—For local assistance, Department of Health Services, for payment to Item 4260-111-001, payable from the Federal Trust Fund		247,020,000
4260-301-036—For capital outlay, Department of Health Services, payable from the Special Account for Capital Outlay		443,000
Schedule:		
(1) 94.50.010-Minor Projects	443,000	

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4260-490—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 purposes specified, and shall be available for encumbrance and expenditure until June 30, 1992:

001-General Fund

(1) Section 2(A), Chapter 1463, Statutes of 1986, as reappropriated by Item 4260-490 (1), Budget Act of 1990, 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 or the Department of Health Services. 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.

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 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, 1992.

4270-001-001—For support, California Medical Assistance Commission 982,000

Schedule:

(a) 100000-Personal Services	1,587,000
(b) 300000-Operating Expenses and Equipment	421,000
(c) Unallocated trigger reduction	−44,000
(d) Reimbursements	−982,000

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4280-001-309—For support of Major Risk Medical Insurance Board, for payment to Item 4280-001-313, payable from the Perinatal Insurance Fund		200,000
4280-001-313—For support of Major Risk Medical Insurance Board, payable from the Major Risk Medical Insurance Fund		946,000
Schedule:		
(a) 10-Major Risk Medical Insurance Program	946,000	
(b) 20-Perinatal Insurance Program	200,000	
(c) Amount payable from the Perinatal Insurance Fund, (Item 4280-001-309)	−200,000	
4300-001-001—For support of Department of Developmental Services		23,746,280
Schedule:		
(a) 10-Community Services Program.	21,240,930	
(b) 20-Developmental Centers Program	12,923,070	
(c) 35.01-Administration	20,062,000	
(d) 35.02-Distributed Administration	−19,594,000	
(e) Unallocated trigger reduction	−506,720	
(f) Reimbursements	−1,331,000	
(g) Amount payable from the Developmental Disabilities Program Development Fund (Item 4300-001-172)	−241,000	
(h) Amount payable from the Federal Trust Fund (Item 4300-001-890)	−8,747,000	
(i) Amount payable from the Developmental Disabilities Account (Item 4300-001-496)	−60,000	
Provisions:		
1. The Department of Developmental Services, in consultation with the Department of Health Services and the regional centers, shall identify all regional center clients that may be eligible for Medi-Cal services provided through the Model Waiver, Skilled Nursing Facility Waiver, and the In-Home Medical Care Waiver in order to ensure that (a) the maximum number of available waiver slots can be filled, and (b) the Department of Developmental Services fills available slots with those clients whose participation in a waiver program will maximize General Fund savings.		

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	2. Of the amount appropriated by this item, the department shall spend $250,000 to contract for a comprehensive needs assessment of populations which are unserved and underserved by regional centers, and who are likely to benefit from regional center services, including prevention services. The department shall submit this assessment by January 1, 1993. The needs assessment shall include, but not be limited to persons with epilepsy. The assessment shall include but not be limited to the needs of women who are at risk of bearing a child with (1) a developmental disability, (2) HIV infection, (3) drug addiction, or (4) fetal alcohol syndrome; as well as infants with these conditions. The needs assessment shall ascertain to what extent these identified populations are obtaining services through regional centers and other state and local agencies, and shall include an cost estimate for providing necessary services to these populations. The department shall determine which other populations shall be included in the needs assessment, after consulting with the State Council on Developmental Disabilities, the Organization of Area Boards, the regional centers, developmental centers and university-affiliated hospitals.	
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		241,000
4300-001-496—For support of Department of Developmental Services, payable from the Developmental Disabilities Service Account		60,000
4300-001-890—For support of Department of Developmental Services, for payment to Item 4300-001-001, payable from the Federal Trust Fund		8,747,000
	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.	

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4300-003-001—For support of Department of Developmental Services, for Developmental Centers	29,933,000

Schedule:

(a) 20-Developmental Centers Program	564,178,000
(b) Reimbursements	−532,537,000
(c) Amount payable from the Federal Trust Fund (Item 4300-003-890)	−1,109,000
(e) Amount payable from the Lottery Education Fund (Item 4300-003-814)	−599,000

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.
   (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 1991–92 fiscal year subject to the following conditions: (1) the reimbursements occur as a result of popula-

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	tion 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 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.	
4300-003-814—For support of Department of Developmental Services, for payment to Item 4300-003-001, payable from the Lottery Education Fund		599,000
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		1,109,000

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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.			
4300-004-001—For support of Department of Developmental Services (Proposition 98), for Developmental Centers			14,407,000
Schedule:			
(a) 20-Developmental Centers Program		23,106,000	
(1) 20.17-AB 1202 Contracts	9,948,000		
(2) 20.66-Medi-Cal Eligible Education Services	13,158,000		
(b) Reimbursements		−8,699,000	
Provisions:			
2. Of the amount appropriated in this item, $8,699,000 is to be used 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			617,035,320
Schedule:			
10.10-Regional Centers			
(a) 10.10.010-Operations		165,334,000	
(ax) Regional Centers-Purchase of Services		512,880,000	
(c) 10.20.010-Program Development		2,150,000	
(d) 10.20.030-Cultural Center for the Handicapped		146,000	
(e) Unallocated trigger reduction		−25,714,680	
(ex) Additional unallocated reduction		−5,800,000	
(ey) Unallocated trigger offset		1,100,000	
(f) Reimbursements		−30,262,000	
(g) Amount payable from Developmental Disabilities Program Development Fund (Item 4300-101-172)		−2,798,000	
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			

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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 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 di-

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rector 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, 1992, and May 15, 1992. The reports shall:

(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.

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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, 1991, each regional 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, 1991:
      (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, 1990, to September 1, 1991, 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.

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	(3) 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.	
	(4) As of September 1, 1991, 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.	
	(5) For the period September 30, 1990 to September 30, 1991, 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.	
	(6) A report as of September 30, 1991, 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.

(7) For the period of September 1, 1990, to September 1, 1991, inclusive, a report on the regional centers' activities related to the development of residential and nonresidential services for regional center clients.

(8) A report as of September 1, 1991, on the number of developmentally disabled individuals, parents, legal guardians, or conservators who are coordinators of the developmentally disabled individuals' program plan.

(9) For the period September 1, 1990, to September 1, 1991, 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.

(10) (A) For the period of September 1, 1990, to September 1, 1991, 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, 1990, and September 1, 1991, shall submit additional information on steps they have taken to reduce SDC admissions.

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(11) The ethnic and geographic characteristics of the regional center catchment area along with:
(A) The ethnic and geographic characteristics of the regional center board.
(B) The ethnic composition of its caseload as of September 1, 1991, by age grouping.
(C) The composition of staff as of September 1, 1991, by ethnicity, gender and disability.
(12) Those activities that are being conducted to assure that board composition, staff configuration and clients served represent the ethnic and geographic characteristics of the regional center catchment area and copies of materials developed for this purpose.

(b) The department shall compile the information 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, 1992.

8. The Director of the Department of Developmental Services (DDS) shall continue its 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 1991–92 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 1992 Budget.

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9. Regional center contracts shall include a provision that requires regional centers to hold open meetings when nominating, electing or appointing members of a regional center board and other related matters concerning board members.

   By June 30, 1992, each regional center shall submit a report to the Department of Developmental Services concerning the number of closed meetings conducted by the regional center board for the period July 1, 1991, through April 30, 1992. This report shall include: 1) the date of the meeting, 2) the general topic, and 3) reason and authority for a closed meeting.

10. Regional center contracts shall include a provision that requires regional centers to increase the participation of minority-owned and women-owned enterprises in providing administrative services through contracts with the regional center. The regional center contract provision shall include a goal for regional center operation contract expenditure of fifteen percent for minority business enterprises (MBEs) and five percent for women business enterprises (WBEs).

    No later than January 31, 1992, each regional center shall submit the following information to the Department of Developmental Services, in a manner and format specified by the Department:

    (1) A list of other regional center contractors for services (such as those required for business operations of the center), indicating MBE and/or WBE status as appropriate.

    (2) A report on resource development efforts undertaken within the current fiscal year to recruit and develop new vendors falling within the MBE and/or WBE classifications.

11. No later than October 15, 1991, each regional center shall submit the following information to the State Department of Developmental Services in the manner and format specified by the department:

Item		Amount
	(a) For fiscal year 1990–91, provide the following information: 1. The total number of regional center clients receiving transportation services funded by the regional center. 2. A report on payments made to parents for transportation services. Specifically, indicate the number of parents to whom payments were made, the average monthly cost of service provided by the parents, and the total cost. 3. A report on expenditures for taxis, rental cars, air transportation, and rail transportation. Indicate the number of client trips and the total cost for each type. 4. A report on the number of monthly public transit passes purchased. 5. A report on whether the regional center has a transportation coordinator and the number of months such coordinator was on payroll. 6. A report listing the actions taken or policies adopted to control the growth in transportation requirements, including efforts to: (A) centralize the location of new residential and day program facilities; (B) locate new facilities near existing facilities; (C) coordinate the location of new day program facilities with new or existing residential facilities; (D) locate new facilities near existing transportation routes of regional center transportation vendors; (E) locate new facilities near existing public transit lines; (F) stagger the beginning and ending times of regional center day programs in order to use vendor resources most efficiently; and (G) utilize innovative route scheduling techniques and improved administration of transportation contracts to maximize the efficient use of available resources.	

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7. A report on the number of clients provided with mobility training, the number whose IPP calls for mobility training but who have not yet received it, and the number whose developmental level indicates they are ready for mobility training, but who have not had it added to their IPP.
8. A report on the estimated cost of transporting regional center clients to Work Activity Programs funded by the Department of Rehabilitation, and a report on the cost of transporting regional center clients to Supported Employment Programs funded by the Department of Rehabilitation.

(b) For 1990–91, provide the following information:

1. A report listing all new programs vendorized in 1990–91 in the following categories: out-of-home, in-home respite, infant development, community based day, and transportation. Identify the provider, the service(s) offered under the program and the cost per client-month of services (or other appropriate unit of service).
2. A report listing all programs which closed down or were terminated by the regional center during 1989–90 and 1990–91 in the following categories; out-of-home, in-home respite, infant development, community based day, and transportation. Identify the provider, the service(s) and the cost per client-month of service (or other appropriate unit of service).

(c) For 1990–91, indicate the number of regional center client-months for each of the programs listed below, and the average cost per client-month (or other appropriate unit of service):

1. Activity Centers
2. Adult Developmental Centers
3. Behavior Management Programs
4. Infant Development Programs
5. Independent Living Programs

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6. Social Recreation
7. In-Home Respite Care

(d) The department shall forward copies of the data submitted by the regional centers pursuant to parts (a) through (c) of this provision to the Department of Finance by October 31, 1991. The department shall also compile the information submitted into appropriate summary reports and tables, and shall forward this information to the Department of Finance and Legislative Analyst, with the department's comments, by April 1, 1992.

12. Regional centers shall assist regional center clients in applying for Medi-Cal services under the Model Waiver, Skilled Nursing Facility Waiver, and In-Home Medical Care Waiver.

13. For the fiscal year 1991–92, the regional center operations budget line item shall be reduced by 50 percent of the total unallocated reduction. The remainder of the unallocated reduction shall be applied to the regional center purchase of services budget line item. That application is not intended to reduce the current level of services being provided to regional center clients. Therefore, regional centers shall implement innovative, cost-effective methods of service delivery, including, but not limited to, the use of vouchers, client/parent case managers, and alternative sources of payment for services.

On or before July 15, 1991, the department shall provide regional centers with a variety of options for reducing operations and service costs.

On or before August 1, 1991, the regional centers shall develop and submit a plan to the department describing in detail how it intends to implement the unallocated reduction and achieve savings necessary to provide services to eligible clients throughout the contract term within the limitations of the funds allocated. Prior to adopting the plan, each regional center shall hold a public hearing in order to receive comment on the plan. The regional centers shall provide public notice to the community at least seven days in advance of

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the public hearing. The plan submitted to the department shall emphasize, but not be limited to: (1) innovative and cost-effective methods of service delivery that include, but are not limited to, the use of vouchers, restructuring of case management services, including client/parent case managers, and alternative sources of payment for services; (2) maximizing all alternative funding sources, including federal and generic funding sources; and (3) assurances that all other operations expenditure reductions are considered before any reductions are made in nonsupervisory, case management staff. The regional center shall implement those components of their plans authorized by statute upon approval of the department. The department shall review and approve all or portions of the regional centers' plans by September 1, 1991.

Notwithstanding any other provision of law, the Director of the Department of Developmental Services may temporarily adopt, amend, or suspend regulations as necessary to allow regional centers to implement their cost reduction plans without (a) adversely affecting client health or safety or (b) placing persons with disabilities in more restrictive environments. Furthermore, any such suspension shall not authorize categorical reductions in services. It is the intent of the Legislature that any such action be deemed an emergency necessary for the immediate preservation of the public peace, health and safety or general welfare for purposes of subdivision (b) of Section 11346.1 of the Government Code.

Developing and implementing the plan shall be considered a contractual obligation pursuant to Section 4635 of the Welfare and Institutions Code. Accordingly, the department shall make reasonable efforts to assist regional centers in fulfilling their contractual obligations and provide technical assistance as necessary. In addition, a regional center's failure to develop and implement the plan may be considered grounds for contract termination or nonrenewal. If at any time the director of the department determines that a regional cen-

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ter'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 funds.

Any unexpended funds in excess of the unallocated reduction amount shall be distributed within the regional center budget as follows: (a) 25 percent shall be applied to offset the operations share of the unallocated reduction and (b) 75 percent shall be used for the development and purchase of services within the community for persons currently inappropriately residing in State Developmental Centers that are waiting for community placement or for those persons living in the community who are at risk of being institutionalized.

14. The department and the regional centers shall take all necessary steps to obtain at least $1,163,000 in 1988–89 and 1989–90 medicaid waiver reimbursements for transportation services. These reimbursements shall revert to the General Fund.

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 2,798,000

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.

4300-301-036—For capital outlay, Department of Developmental Services, payable from the Special Account for Capital Outlay 1,000,000

Schedule:

(1) 55.10.205-Minor Projects 1,000,000

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4300-495—Reversion, Department of Developmental Services. As of June 30, 1991, $700,000 of the unencumbered balance of the following citation shall revert to the General Fund.		
(1) Developmental Disabilities Program Development Fund.		
4440-001-001—For support of Department of Mental Health		28,486,000
Schedule:		
(a) 10-Community Services	30,281,000	
(b) 20-State Hospital Services	8,491,000	
(c) 35.01-Departmental Administration	11,233,000	
(d) 35.02-Distributed Departmental Administration	−11,233,000	
(e) Unallocated trigger reduction	−277,000	
(f) Reimbursements	−6,909,000	
(g) Amount payable from the Primary Prevention Fund (Item 4440-001-845)	−214,000	
(h) Amount payable from the Federal Trust Fund (Item 4440-001-890)	−2,147,000	
(i) Amount funded from Short-Doyle Audit Exceptions for Program 10	−739,000	
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.		
2. Upon order of the Director of Finance, and following 30-day notification to the Joint Legislative Budget Committee, the State Controller shall transfer between this item and Item 4440-016-001 those funds necessary for state-administered conditional release services in the event that the Department of Mental Health is unable to contract for those services with a county government or private provider.		
3. Upon order of the Director of Finance, the State Controller shall transfer between this item and category (b) of Item 4440-101-001 up to $320,000 for costs associated with the following administrative activities for the Adult System of Care Pilots established pursuant to Chapter 982 of the Statutes of 1988: (a) the independent client and		

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	cost outcome evaluation; (b) the management information system; and (c) training for provider agency staff.	
4440-001-845—For support of Department of Mental Health, for payment to Item 4440-001-001, payable from the Mental Health Primary Prevention Fund		214,000
4440-001-890—For support of Department of Mental Health, for payment to Item 4440-001-001, payable from the Federal Trust Fund		2,147,000
4440-011-001—For support of the State Hospitals, Department of Mental Health		155,030,000
Schedule:		
(a) 20.10-Lanterman-Petris-Short Act	254,895,000	
(b) 20.20-Penal Code and Judicially Committed	149,788,000	
(c) 20.30-Other State Hospital Services	44,281,000	
(d) Unallocated trigger reduction	−2,638,000	
(e) Reimbursements	−288,861,000	
(f) Amount payable from Special Account for Capital Outlay (Item 4440-011-036) to Program 20.20	−2,435,000	
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 4300-003-001, 4300-004-001, 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 ser-		

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vice 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 $560,000 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 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 $1,609,000 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.
8. Up to $145,000 in savings generated by phasing in new state hospital positions is available for the purpose of contracting, pursuant to the provisions of Chapter 2.5 (commencing with Section 4240) of Part 2 of Division 4 of the Welfare and Institutions Code, with an organization to establish a statewide network of families who have mentally disordered family members for the purpose of providing information, advice, support and other assistance to these families.
9. Upon order of the Director of Finance, and following 30-day notification to the Joint Legislative Budget Committee, the State Controller shall transfer between this item and Item 4440-016-001 those funds that are necessary should the status of a Conditional Release patient change and the patient's admission to a state hospital become necessary.
10. Of the amount appropriated in this item, the Department of Mental Health shall separately account for all funds expended to implement

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the terms of the consent decree entered into between the Department of Mental Health and the United States Attorney General's Office under the terms of the Civil Rights of Institutionalized Persons Act. The Department of Mental Health shall assign a unique unit reporting code for this purpose.

11. The department shall provide up to an additional 71 state hospital beds to Department of Corrections patients subject to a buy-out of LPS beds by the counties, unless prohibited from doing so as a result of County of San Diego et al., vs. D. Michael O'Connor et al.
12. Of the amount appropriated or provided through reimbursements in this item, $759,000 shall be available exclusively for the purpose of providing the drug Clozapine to state hospital patients.
13. Of the amount appropriated or provided through reimbursements in this item, up to $749,000 is available exclusively for the provision of recruitment and retention bonuses and salaries to psychiatrists at Napa State Hospital, or other CRIPA-related expenditures upon approval of the Joint Legislative Budget Committee.

4440-011-036—For support of the State Hospitals, Department of Mental Health, for payment to Item 4440-011-001, payable from the Special Account for Capital Outlay 2,435,000

4440-016-001—For support, Department of Mental Health, for Conditional Release Services 15,676,000

Schedule:

(a) 10-Community Services 15,676,000

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.

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3. Upon order of the Director of Finance, and following 30-day notification to the Joint Legislative Budget Committee, the State Controller shall transfer between this item and Item 440-001-001 those funds that are necessary for state-administered conditional release services in the event that the Department of Mental Health is unable to contract for those services with a county government or private provider. In the same manner, funds may also be transferred between this item and Item 440-011-001 should the status of a conditional release patient change and the patient's admission to a state hospital become necessary.
4. The Department of Mental Health shall provide outpatient services mandated in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, through contracts with the county mental health program. If the county mental health program is unwilling to provide services, the Department of Mental Health shall seek to contract with a private provider. In the event no county mental health program or private provider is willing to provide forensic outpatient services through contract to a county or region, the Department of Mental Health shall itself provide such services.
5. In negotiating contracts with the county mental health program or private provider, the Department of Mental Health shall use caseload data from the most recent 6- or 12-month period to establish fixed costs for provision of basic and core services. Negotiated rates for additional services shall be based on current or prior year claim data, as well as other cost data (such as Short-Doyle, or S.B. 900 rates) as may be available.
6. Payment for treatment services to persons on court visit from state hospitals to the community shall be limited to circumstances designated in subdivision (a) of Section 4117 Welfare and Institutions Code.
7. Of the amount appropriated in this item, $136,000 shall be available exclusively for the purpose of providing the drug Clozapine to CONREP patients.

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4440-101-001—For local assistance, Department of Mental Health		16,091,000
Schedule:		
(a) 10.25-Community Services—other treatment	114,624,000	
(b) 10.40-Adult System of Care Pilots	8,000,000	
(c) 10.47-Children's mental health services	5,518,000	
(d) 10.85-AIDS	1,500,000	
(e) Unallocated trigger reduction	−726,000	
(f) Reimbursements	−111,700,000	
(g) Amount funded from Short-Doyle Audit exceptions	−1,125,000	

Provisions:

1. 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.
2. It is intended that local expenditures for mental health services for Medi-Cal eligible individuals serve as the match to draw down maximum federal financial participation to continue the Short-Doyle/Medi-Cal program.
3. Upon order of the Director of Finance, the State Controller shall transfer between Category (b) in this item and Item 4440-001-001 up to $320,000 for costs associated with the following administrative activities for the Adult System of Care Pilots established pursuant to Chapter 982 of the Statutes of 1988: (a) the independent client and cost outcome evaluation; (b) the management information system and (c) training for provider agency staff.
4. Of the amount appropriated by this item, $3,700,000 in reimbursements from realignment funds shall be allocated by the department to implement the provisions of SB 370, Chapter 1294, Statutes of 1989.

Item		Amount
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 Program 10-Community Services, for primary intervention projects, local assistance, Department of Mental Health, payable from the Mental Health Primary Prevention Fund.....		1,738,000
4440-101-890—For local assistance, Department of Mental Health, payable from the Federal Trust Fund.....		21,332,000
Schedule:		
(a) 10.25-Community Services—other treatment	18,242,000	
(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. Notwithstanding any other provision of law, funds identified in Item 4440-101-890 of the Budget Act of 1990 for rollover by the counties in fiscal year 1991–92 shall be used only for the specified purposes for which they were allocated, subject to review and approval of the Department of Mental Health.		
3. 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 1991–92.		
4. 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, commu-		

Item		Amount
nity 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 services, 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.		
4440-111-001—For local assistance, Department of Mental Health, for services to brain damaged adults		5,047,000
Schedule:		
(a) 10-Community Services	5,257,000	
(b) Trigger reduction	−210,000	
4440-131-001—For local assistance, Department of Mental Health, for services to special education pupils		14,511,000
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	15,116,000	
(b) Trigger reduction	−605,000	
Provisions:		
1. In allocating to the counties funds for mental health services to special education pupils, 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 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 auto-		

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matic repeal until the final regulations take effect on or before June 30, 1992.

4440-141-001—For local assistance, Department of Mental Health, for services provided in Institutions for Mental Diseases 0

Schedule:

(a) 10.95 Institutions for Mental Diseases 103,779,000

(b) Trigger reduction ..... −3,349,000

(c) Reimbursements ..... −100,430,000

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.
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.

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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 those funds which are necessary to support patients who may be transferred to the state hospitals as the result of the decertification of the special treatment program in a skilled nursing facility funded by this item.

4440-301-036—For capital outlay, Department of Mental Health, payable from the Special Account for Capital Outlay 1,814,000
Schedule:
(1) 55.10.205-Minor Projects..... 411,000
(2) 55.35.280-Metropolitan Hospital: Concrete Steam and Condensate Tunnel—Preliminary plans, working drawings, and construction.... 1,403,000

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, 1992:

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001—General Fund

(1) Item 4440-001-001, Budget Act of 1989, $48,000 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 4440-101-001, Budget Act of 1990, $210,000 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).

4440-495—Reversion, Department of Mental Health. As of June 30, 1991, 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 4440-301-036 (05), Budget Act of 1990, 55.45.225-Patton: Fire and Life Safety and Environmental Improvements, Building 30—Construction

4440-496—Reversion, Department of Mental Health. As of June 30, 1991, the following amounts of the unencumbered balances provided in the following citations shall revert to the General Fund:

(1) Item 4440-001-001, Budget Act of 1990, Program 10.40—$75,000

(2) Item 4440-101-001, Budget Act of 1989, Program 10.40—$400,000

(3) Item 4440-101-001, Budget Act of 1990, Program 10.40—$190,000

4440-497—Reversion, Department of Mental Health. At such time as the Department of Finance and the State Controller determine that sufficient funds are available, $2,000,000 of the unencumbered balance of the following citation shall revert to the General Fund:

Mental Health Primary Prevention Fund.

5100-001-001—For support of Employment Development Department, for payment to Item 5100-001-870 23,754,000

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 8,059,000

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5100-001-185—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the Employment Development Contingent Fund	21,348,000

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	98,226,000

Provisions:

1. Notwithstanding Section 2 of this act, any unexpended balance in the Employment Training Fund as of June 30, 1991, is hereby appropriated for transfer to and in augmentation of this item, for allocation by the Employment Training Panel for job training contracts.
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. Expenditures for marketing and research provided under contract to the panel shall not be included in the 15 percent administrative cost limitation set forth in paragraph (2) of subdivision (a) of Section 10206 of the Unemployment Insurance Code.
3. Notwithstanding Section 2.00 of this act, funds disencumbered from Employment Training Fund job training contracts during fiscal year 1991–92 are hereby appropriated for transfer to, and in augmentation of, this item for allocation by the Employment Training Panel for job training contracts. The Employment Development Department shall notify the Legislature by September 1, 1992, of the actual amount of funds appropriated pursuant to this provision.

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4. Notwithstanding any other provision of law, all employer contributions over $55,000,000 to the Employment Training Fund during the 1990–91 fiscal year shall be transferred to the General Fund in the 1991–92 fiscal year.
5. Of the funds appropriated by this item, $18,000,000 shall be available for administrative costs of the Employment Services 90 Percent Program for 1991–92.
6. The funds appropriated for administrative costs of the Employment Services 90 Percent and Service Center programs for the 1991–92 fiscal year shall not be deemed an administrative cost for purposes of paragraph (2) of subdivision (a) of Section 10206 of the Unemployment Insurance Code.
7. Notwithstanding any other provision of law, the amount of $1,200,000 shall be transferred from the unappropriated surplus of the Employment Training Fund to the General Fund as of June 30, 1992.
8. The Employment Training Panel shall advise groups and organizations assisting eligible newly legalized individuals and the federal 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 99-603), 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, 1992, 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.
9. In addition to the $2,700,000 authorized by Section 10214.5 of the Unemployment Insurance Code, funds appropriated in this item shall include $2,700,000 for the sole purpose of funding special employment training projects as authorized by Section 10214.5 of the Unemployment Insurance Code that are limited to training participants in the Greater Avenues for Indepen-

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	dence (GAIN) program or recipients of state-only AFDC-U. In the event the state-only AFDC-U program is abolished by legislation, for the purposes of the special employment training projects, individuals shall be considered state-only AFDC-U recipients if they received state-only AFDC-U benefits in July, 1990, or any subsequent month or if they would have been eligible for state-only AFDC-U benefits had the program not been abolished.	
5100-001-588—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the Unemployment Compensation Disability Fund		109,772,000

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.

Item		Amount
5100-001-869—For support of state programs under the Job Training Partnership Act, Employment Development Department, payable from the Consolidated Work Program Fund		59,577,000
Schedule:		
(a) 60.11-Administrative Cost Pool	12,652,000	
(b) 60.20-Incentive and Technical Assistance	10,237,000	
(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	15,604,000	
(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		449,870,000
Schedule:		
(a) 10-Employment and Employment Related Services	171,527,000	
(b) 20-Tax Collection and Benefit Payments	495,260,000	
(c) 30.01-General Administration	40,194,000	
(d) 30.02-Distributed General Administration	−36,629,000	
(e) 50-Employment Training Panel	65,783,000	
(f) Reimbursements	−23,767,000	
(g) Amount payable from the General Fund (Item 5100-001-001)	−23,754,000	
(h) Amount payable from the Employment Development Department Benefit Audit Fund (Item 5100-001-184)	−8,059,000	
(i) Amount payable from the Employment Development Contingent Fund (Item 5100-001-185)	−21,348,000	
(j) Amount payable from the Employment Training Fund (Item 5100-001-514)	−98,226,000	

Item		Amount
(k)	Amount payable from the Unemployment Compensation Disability Fund (Item 5100-001-588) ...	−109,772,000
(*l*)	Amount payable from the School Employees Fund (Item 5100-001-908)	−603,000
(m)	Amount payable from the Unemployment Fund-Reed Act (Item 5100-001-871)	−736,000

Provisions:

1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.
2. The Employment Development Department (EDD) shall submit on October 1 and April 20, to the Department of Finance for its review and approval an estimate of expenditures for both current and budget years, including the assumptions and calculations underlying EDD projections for support expenditures for the Unemployment Insurance program from this item. The Department of Finance shall approve, or modify, the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of support expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this appropriation and the Department of Finance approved estimate for the Unemployment Insurance program. Revisions for the support of the Unemployment Insurance program reported pursuant to this provision are not subject to the provisions of Section 28.00 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

Item	Amount
Development Contingent Fund, up to a total of $263,000, to substitute for these federal funds.	
5100-001-871—For support of the Employment Development Department, for the purchase and maintenance of data-processing equipment and software, payable from moneys credited to this state's account in the Unemployment Trust Fund and made available to this state under Section 903 of the Social Security Act (42 U.S.C., Sec. 1103) as amended.....	736,000
Provisions:	
1. Funds appropriated in this item shall be requisitioned from the Unemployment Trust Fund pursuant to Section 1528.5 of the Unemployment Insurance Code.	
2. The total amount obligated pursuant to this item during the 1991–92 fiscal year shall not exceed the amount by which (a) the aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act (42 U.S.C., Sec. 1103) during the 1991–92 fiscal year and the 34 preceding fiscal years, exceeds (b) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during these 35 fiscal years.	
5100-001-908—For support of Employment Development Department, for payment to Item 5100-001-870, payable from the School Employees Fund	603,000
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	

Item	Amount
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, 1992, 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	(446,437,000)
5100-021-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund	(59,577,000)
5100-031-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Federal Unemployment Fund	(736,000)
5100-101-588—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Unemployment Compensation Disability Fund	2,365,100,000
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	

Item	Amount
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	
(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	3,417,700,000
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)

Item		Amount
5100-101-908—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the School Employees Fund		27,651,000
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.		
5100-111-890—For local assistance, Employment Development Department, payable from the Federal Trust Fund		(3,420,610,000)
Schedule:		
(a) For transfer to the Federal Unemployment Fund (871)	(3,417,700,000)	
(b) For transfer to the Unemployment Administration Fund (870)	(2,910,000)	
5100-301-588—For capital outlay, Employment Development Department, payable from the Unemployment Compensation Disability Fund, for transfer to the Unemployment Administration Fund—Federal		(1,754,000)
Schedule:		
(1) 80.37.040 Minor projects	(220,000)	
(2) 80.26.001 Stockton Office: Renovation and Asbestos Abatement—Construction	(576,000)	
(3) 80.29.001 Santa Barbara Office: Renovation and Asbestos Abatement—Construction	(464,000)	
(4) 80.45.001 Hollywood Office: Renovation and Asbestos Abatement—Construction	(494,000)	
5100-301-870—For capital outlay, Employment Development Department, payable from the Unemployment Administration Fund—Federal		3,762,000
Schedule:		
(2) 80.37.040 Minor projects	220,000	

Item		Amount
(3)	80.26.001 Stockton Office: Renovation and Asbestos Abatement—Construction	1,372,000
(4)	80.29.001 Santa Barbara Office: Renovation and Asbestos Abatement—Construction	1,079,000
(5)	80.45.001 Hollywood Office: Renovation and Asbestos Abatement—Construction	993,000
(6)	80.69.001 Fullerton Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	24,000
(7)	80.66.001 El Centro Office: Build to Suit—Preliminary plans and working drawings	74,000

Provisions:

1. Notwithstanding any other provision of law, the following amounts in the Architecture Revolving Fund, as authorized in the following citation, may be expended by the Employment Development Department for preliminary plans and working drawings for El Centro Office Renovation and Asbestos Abatement herein authorized:
   a. Item 5100-301-870, Budget Act of 1985, for Capital Outlay, Employment Development Department, (1) 80.37.020-Minor Projects 103,000
2. Notwithstanding any other provision of law, the following amounts in the Architectural Revolving Fund, as authorized in the following citation, may be expended by the Employment Development Department for preliminary plans and working drawings for Fullerton Office Renovation and Asbestos Abatement herein authorized:
   a. Item 5100-301-870, Budget Act of 1985, for Capital Outlay, Employment Development Department, (1) 80.37.020-Minor projects..... 80,000
3. Notwithstanding any other provision of law, the following amounts in the Architectural Revolving Fund, as authorized in the following citations, may be expended by the Employment

Item		Amount
	Development Department for construction costs associated with the Hollywood Renovation and Asbestos Abatement project authorized by this item:	
	a. Item 5100-301-870, Budget Act of 1985, for Capital Outlay, Employment Development Department, (1) 80.37.020-Minor Projects	588
	b. Item 5100-301-870, Budget Act of 1986, for Capital Outlay, Employment Development Department, 80.37.020-Minor Projects.....	668
	c. Item 5100-301-870, Budget Act of 1987, for Capital Outlay, Employment Development Department, (2) 80.37.020-Minor Projects	291,362
	d. Item 5100-001-870, Budget Act of 1986, for support of Employment Development Department.....	249,022
	e. Item 5100-001-870, Budget Act of 1988, for support of Employment Development Department.....	4,225
	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 in excess of $2,000,000 to provide adequate office and parking facilities for the area office in Indio.	
5100-301-871	—For capital outlay, Employment Development Department, payable from the Federal Unemployment Fund, for transfer to the Unemployment Administration Fund-Federal.....	(773,000)
	Schedule:	
	(2) 80.26.001-Stockton Office: Renovation and Asbestos Abatement—Construction	(206,000)
	(3) 80.29.001-Santa Barbara Office: Renovation and Asbestos Abatement—Construction.....	(184,000)

Item		Amount
(4) 80.45.001-Hollywood Office: Renovation and Asbestos Abatement—Construction	(379,000)	
(5) 80.69.001-Fullerton Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(4,000)	
5100-301-890—For capital outlay, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund—Federal		(1,235,000)
(1) 80.26.01-Stockton Office: Renovation and Asbestos Abatement—Construction	(590,000)	
(2) 80.29.001-Santa Barbara Office: Renovation and Asbestos Abatement—Construction	(431,000)	
(3) 80.45.001-Hollywood Office: Renovation and Asbestos Abatement—Construction	(120,000)	
(4) 80.69.001-Fullerton Office: Renovation and Asbestos Abatement—Preliminary plans and working drawings	(20,000)	
(5) 80.66.001-El Centro Office: Build to Suit—Preliminary plans and working drawings	(74,000)	
5100-490—Reappropriation, Employment Development Department. As of June 30, 1991, the balance of the appropriation provided in Item 5100-101-869, Budget Act of 1990, is reappropriated for transfer to and in augmentation of Item 5100-101-869, Budget Act of 1991, and shall be available for encumbrance and expenditure through June 30, 1992.		
Provisions:		
1. The Employment Development Department shall notify the Legislature by December 1, 1991, of the actual amount of 1990–91 Federal Job Training Partnership Act local assistance funds carried forward into 1991–92 for expenditure.		
5160-001-001—For support of Department of Rehabilitation		30,689,000
Schedule:		
(a) 10-Vocational Rehabilitation Services	185,803,000	

Item			Amount
(b) 20-Habilitation Services		2,619,000	
(c) 30-Support of Community Facilities		2,356,000	
(d) 40.01-Administration		16,302,000	
(e) 40.02-Distributed Administration		−16,302,000	
(f) Reimbursements		−3,532,000	
(g) Amount payable from the Federal Trust Fund (Item 5160-001-890)		−156,557,000	

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.
3. It is the intent of the Legislature that the Department of Rehabilitation pursue all available federal funds to maximize services affected by any reduced General Fund appropriations.

5160-001-890—For support of Department of Rehabilitation, for payment to Item 5160-001-001, payable from the Federal Trust Fund			156,557,000
5160-101-001—For local assistance, Department of Rehabilitation			76,881,000
Schedule:			
(a) 10-Vocational Rehabilitation Services		507,000	
(b) 20-Habilitation Services		74,226,000	
(1) 20.10 Work Activity Program	56,857,000		
(2) 20.30 Counselor-Teacher and Reader Services	102,000		
(3) 20.40 Supported Employment Services	17,267,000		

Item		Amount
(c) 30-Support of Community Facilities	5,351,000	
(d) Unallocated trigger reduction	−3,203,000	

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. If legislation is enacted to suspend the rate adjustments required pursuant to Section 19356 of the Welfare and Institutions Code, the resulting savings shall be applied toward meeting the trigger reduction for the Work Activity Program and Supported Employment Program, in order to serve additional clients.

5180-001-001—For support of Department of Social Services		115,187,000
Schedule:		
(a) 10-Welfare Program Operations	70,304,000	
(b) 20-Social Services Programs	37,413,000	
(c) 30-Community Care Licensing	61,551,000	
(d) 40-Disability Evaluation Program	120,239,000	
(f) 60.01-Administration	27,680,000	
(g) 60.02-Distributed Administration	−19,255,000	
(gx) Unallocated trigger reduction	−2,400,000	
(h) Reimbursements	−12,312,000	

Item		Amount
(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)	−166,602,000
(k)	Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−691,000

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 1990–91 and 1991–92. Limits on hourly rates established by Provision 2 of Item 9810-001-001 shall also apply to the payment of attorney's fees pursuant to this provision.
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.
4. The State Department of Social Services shall use consistent outcome measures for Child Social Services as it designs information systems and monitors the performance of child welfare programs. In designing the state's new CWS/CMS computer tracking program, the Department of Social Services shall ensure that the following data information is collected.
   (a) Safety indicators.
      (1) Child deaths as a result of abuse or neglect while in the system (including home and placement).
      (2) Neglect or abuse in placement (including the home of a relative).
      (3) Repeat neglect or abuse in the home for open cases.

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(b) Stability indicators.
(1) Children removed from parents' home and placed in out-of-home care.
(2) Average number of placement changes over the preceding year per child.
(3) Families receiving preplacement preventive services.
(4) Average length of time in care for children in care over 90 days.
(5) Sibling separations.
(c) Family functioning indicator.
(1) Cases receiving family assessments, in addition to child risk assessment.
(d) Community and cultural integrity indicators.
(1) Number and percentage of children placed within five miles of family home.
(2) Average number of school changes as a result of placement.
(3) Ethnic composition of placement resources (foster parents, ffa's, relatives) compared to ethnic composition of all children in out-of-home care.

It is the intent of the Legislature that this information shall be submitted to the policy committees of the Legislature annually commencing July 1, 1994. Reports regarding indicators shall include total numbers as well as percentages.

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

Provisions:

1. The Director of Finance is authorized to approve expenditures from the unexpended balance available from prior years' appropriations in the Foster Family Home and Small Family Home Insurance Fund during the 1991–92 fiscal year, in those amounts made necessary by increases in either the payment of claims or the costs of operating and maintaining the Foster Family Home and Small Family Home Insurance Fund, which are within or in excess of amounts appropriated in this act for that year.

Item		Amount
If the Director of Finance determines that the estimate of expenditures will exceed the expenditures authorized for the 1991–92 fiscal year, the Director shall so report to the Legislature. At such time as the report is made, the amount of the limitation for the 1991–92 fiscal year shall be increased by the amount of such excess from the unexpended balance available from prior years' appropriations in the Foster Family Home Small Family Home Insurance Fund.		
5180-001-890—For support of Department of Social Services, for payment to Item 5180-001-001, payable from the Federal Trust Fund		166,602,000
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.		
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
Provisions:		
1. Provision 1 of Item 5180-001-131 is also applicable to this item.		
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
Provisions:		
1. Provision 1 of Item 5180-001-131 is also applicable to this item.		
5180-101-001—For local assistance, Department of Social Services		2,922,335,000
Schedule:		
(a) 10.04.005-Aid to Families with Dependent Children	5,751,170,000	
(b) 10.04.010-Child Support Incentives	70,104,000	
(c) 10.04.015-Aid for Adoption of Children/Adoption Assistance Program	56,537,000	
(d) 10.04.020-Transitional Child Care..	11,634,000	
(dx) Unallocated trigger reduction....	−1,831,000	

Item		Amount
(e)	Amount payable from the Federal Trust Fund (Item 5180-101-890)	−2,962,884,000
(f)	Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−2,395,000

Provisions:

1. No funds appropriated by this item shall be encumbered unless every rule or regulation adopted and every all-county letter issued by the Department of Social Services which adds to the cost of any welfare program is approved by the Department of Finance as to the availability of funds before it becomes effective. In making the determination as to availability of funds to meet the expenditures of a rule, regulation, or all-county letter which would increase the costs of a welfare program, the Director of Finance shall consider the amount of the proposed increase on an annualized basis, the effect such change would have on the expenditure limitations for such program set forth in this act, the extent to which the rule, regulation, or all-county letter constitutes a deviation from the premises under which the expenditure limitations were prepared, or any additional factors relating to the fiscal integrity of such program or the state's fiscal situation.

   Notwithstanding the provisions of Sections 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.

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Funds appropriated in this item are for welfare programs as they exist on July 1, 1991, 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 1991–92 fiscal year.
3. There is hereby established for the next two quality control review periods, a dollar error rate standard of 4 percent, pursuant to Section 15200.4 of the Welfare and Institutions Code.

   For the purposes of state sanctions pursuant to Section 15200.4 of the Welfare and Institutions Code, the error rate estimate that shall be used to measure the quality performance of each county shall be the low point estimate of the confidence interval estimated by combining the results from the two quality review samples conducted during the two subsequent quality review periods.

   Amounts realized from the counties as the result of a state fiscal sanction shall first be applied as an offset to the state's share of Program 10.04, Payments for Children. To the extent that this application results in a surplus to the General Fund appropriation for that program, such surplus shall revert to the General Fund.
4. The Director of Finance is authorized to approve expenditures in those amounts made necessary by changes in either caseload or pay-

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ments, 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 1991–92 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 $163,000,000 shall be made available from the General Fund from funds not otherwise appropriated, to cover the federal share of costs for the Aid to Families with Dependent Children program when the federal share has not been received by this state prior to the usual time for transmitting such federal share to the counties of this state. Such loan from the General Fund shall be repaid when the federal share becomes available.
6. 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 $14,249,000, 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 pursu-

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ant to Chapter 105, Statutes of 1988, and Chapter 1117, Statutes of 1990.		
8. The unallocated trigger reduction in this item shall not be taken from the Child Support Enforcement program.		
5180-101-890—For local assistance, Department of Social Services, for payment to Item 5180-101-001, payable from the Federal Trust Fund		2,962,884,000
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		2,471,970,000
Schedule:		
(a) 10.08-SSI/SSP	2,508,704,000	
(b) Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	−36,734,000	
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		2,959,000
Schedule:		
(a) 10.12-Special Adult Programs	3,157,000	
(b) Trigger reduction	−123,000	
(c) 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		32,458,000
5180-141-001—For local assistance, Department of Social Services		331,448,000
Schedule:		
(a) 10.20-County Administration	1,136,657,000	
(ax) Trigger reduction	−13,401,000	

Item		Amount
(b)	Amount payable from the Federal Trust Fund (Item 5180-141-890)	—788,889,000
(c)	Amount payable from the State Legalization Impact Assistance Grant (Allocation from Control Section 23.50)	—2,919,000

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, to Items 5180-001-001 and 5180-001-890 for this purpose.
2. During the 1991–92 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.

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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. The department is restricted to paying for the first counties' share for no more than five SAWS systems.
7. Pursuant to public assistance caseload estimates reflected in the annual Governor's Budget, the Director of Finance may approve expenditures in those amounts made necessary by changes in caseload which are in excess of amounts appropriated in this act. If the Director of Finance determines that the estimate of expenditures will exceed the expenditures authorized for this item, the Director shall so report to the Legislature. At the time the report is made, the amount of the limitation shall be increased by the amount of the excess unless and until otherwise provided by law.

5180-141-890—For local assistance, Department of Social Services, for payment to Item 5180-141-001, payable from the Federal Trust Fund 788,889,000

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 547,728,000

Schedule:

(a) 20.30-Other County Social Services 486,201,000
  (1) 20.30.010-Child Welfare Services Grant 421,725,000
  (2) 20.30.030-County Services Block Grant 64,476,000

Item		Amount
(b) 20.35-Specialized Adult Services ..		497,598,000
(1) 20.35.220-In-Home Supportive Services.....	491,542,000	
(2) 20.35.240-Maternity Care.....	2,614,000	
(3) 20.35.250-Access Assistance for the Deaf.....	3,442,000	
(c) 20.40-Employment Services		181,715,000
(d) 20.42-Adoptions.....		30,279,000
(e) 20.45-Refugee Assistance Services...		40,524,000
(f) 20.47-Child Abuse Prevention.....		10,250,000
(fx) Unallocated trigger reduction.....		−16,138,000
(g) Reimbursements (Federal-funds).....		−3,235,000
(h) Amount payable from the Federal Trust Fund (Item 5180-151-890).....		−679,466,000

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

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$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. Budgets for approved county plans shall clearly identify the amount necessary to meet the child care needs of GAIN participants. The Department 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.
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.

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 recipi-

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ents. This memorandum of understanding shall use data collected by SDE and certified by the Auditor General.

6. 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.
7. Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $60,000,000 shall be made available from the 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.
8. Except for funds necessary to continue to serve clients participating in the county GAIN program as of June 30, 1991, during the transition to merit employee case management, none of the funds in this item may be used by Los Angeles County to contract with Maximus, Inc. for case management services.

   Within 60 days of the passage of this act, Los Angeles County shall report to the Legislature on its plan to (1) terminate its contract with Maximus, Inc. for case management services; and (2) promptly hire merit employees to implement the county GAIN program.

5180-151-890—For local assistance, Department of Social Services, for payment to Item 5180-151-001, payable from the Federal Trust Fund 679,466,000

Provisions:

1. Provisions 1 and 3 of Item 5180-151-001 and Provision 1 of Item 5180-101-001 are also applicable to this item.
2. 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.

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5180-161-001—For local assistance, Department of Social Services		7,544,000
Schedule:		
(a) 30-Community Care Licensing	10,620,000	
(b) Trigger reduction	−343,000	
(c) Amount payable from the Federal Trust Fund (Item 5180-161-890)	−2,733,000	
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.		
5180-161-890—For local assistance, Department of Social Services, for payment to Item 5180-161-001, payable from the Federal Trust Fund		2,733,000
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.		
5180-181-890—For local assistance, Department of Social Services, to be transferred to and in augmentation of programs upon approval of the Department of Finance, effective July 1, 1991, payable from the Federal Trust Fund		18,874,000
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, 1992:		
001—General Fund		
(1) Up to $265,000 of the appropriation provided in Item 5180-001-001, Budget Act of 1990, Program 20, Social Services Programs, is reappropriated for transfer to and in augmentation of Item 5180-001-001 of the Budget Act of 1991, Program 20, Social Services Programs, for the purpose of the implementation of court-ordered judgments in the In-Home Supportive Services Program.		

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(2) Up to $110,000 from Item 5180-001-001, Budget Act of 1990, Program 20, Social Services Programs, for transfer to and in augmentation of Item 5180-001-001, Budget Act of 1991, Program 20, Social Services Programs, for the purpose of funding a child welfare services study as mandated by Chapter 1117, Statutes of 1990.

5180-495—Reversion, Department of Social Services. Notwithstanding any other provision of law, as of June 30, 1991, the unencumbered balance of the appropriation provided in the following citation shall revert to the balance of the fund from which the appropriation was made.

001—General Fund

(1) Chapter 465 of the Statutes of 1990.

YOUTH AND ADULT CORRECTIONAL AGENCY

5240-001-001—For support of Department of Corrections 2,262,511,000

Schedule:

(a) 21-Institution Program 2,295,691,000
(b) 31-Community Correctional Program 223,354,000
(c) 41.01-Administration 155,641,000
(d) 41.02-Distributed Administration ..... −154,566,000
(dx) Unallocated reduction ..... −112,000,000
(e) Unallocated trigger reduction ..... −52,560,000
(f) Reimbursements ..... −26,671,000
(g) Amount payable from the 1990 Prison Construction Fund (Item 5240-001-751) ..... −31,250,000
(h) Amount payable from the Federal Trust Fund (Item 5240-001-890) .. −217,000
(i) Amount payable from the Inmate Welfare Fund (Item 5240-001-917) ..... −34,911,000

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 Leg-

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islative 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), $2,452,000, plus amounts required for employee compensation increases, shall be available for payment to the Department of Forestry and Fire Protection, Item 3540-001-001, to reimburse the costs of newly activated conservation camps during the 1991–92 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 1991–92 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 maintain occupancy of the Central City Community Center facility at or above 95 percent. If necessary,

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the Department of Corrections will place work-furlough inmates in the facility. If the facility falls below a 95 percent occupancy level, based on a monthly average, the Department of Corrections shall report to the Joint Legislative Budget Committee and the legislative fiscal committees. The report shall be submitted within two weeks after the end of a month in which the occupancy level falls below the 95 percent level.

8. Of the funds appropriated in this item, $1,700,000 shall be used to implement the substance abuse master plan of the Department of Corrections.

10. It is the intent of the Legislature that the Department of Corrections operate a drug education reentry program in Calaveras County for women who have been convicted of nonviolent crimes. To the extent it is programmatically and fiscally feasible, the Department of Corrections may contract for the proposed services with approval of the Department of Finance. The Department of Corrections is authorized to redirect funds from its existing appropriation to provide this service or may request an appropriation through the budgetary process.

11. On or before October 1, 1991, the Department of Corrections shall implement a statewide information system that identifies inmates eligible for participation in prison substance abuse treatment programs at R. J. Donovan Correctional Facility and the California Institution for Women, and other CDC treatment programs as they are developed. This system, when implemented at all reception centers and institutions, shall include the names of at least 1,500 program-eligible inmates.

12. This item includes an unallocated reduction of $112 million for support of the Department of Corrections. The department shall make permanent, structural changes to its operations in order to achieve this reduction, including examination of (1) staffing ratios, (2) employee compensation, (3) post assignment efficiencies, (4) varied work schedules, (5) reduced overtime, (6) expanded community correc-

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tional programs, and (7) summary parole caseloads. In addition, the department shall zero-base the budgets of the Folsom and Pelican Bay State Prisons, and the Deuel Vocational Institute, in developing its 1992–93 budget proposal in order to identify additional efficiencies. The department shall not achieve any of the required savings by reducing expenditures for the following programs (1) inmate education, (2) substance abuse programming, (3) family visiting, or (4) inmate training programs that provide jobs, education, or training for successful parole. The department shall report to the Joint Legislative Budget Committee and the Legislature's fiscal committees by January 10, 1992, on progress toward achieving these reductions. It is the intent of the Legislature that, if the department cannot identify sufficient efficiencies and changes to achieve this reduction requirement, a portion of the amount may be restored pursuant to Section 27 of this act.	
5240-001-751—For support of the Department of Corrections, for payment to Item 5240-001-001, payable from the 1990 Prison Construction Fund	31,250,000
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 1991–92 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.....	34,911,000
5240-003-001—For support of the Department of Corrections.....	118,634,000
Provisions:	
1. Of the amount appropriated in this item, $12,303,200 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); $16,607,100 is provided for lease payments and	

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	insurance costs as required in connection with issuance of Lease Revenue Bonds, 1986 Series A (Mule Creek State Prison); $35,415,650 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 $28,872,972 is provided for lease payments and insurance costs as required in connection with issuance of Lease Revenue Bonds, 1987 Series A (Pelican Bay State Prison); $25,435,034 is provided for lease payments and insurance costs as required in connection with issuance of Lease Revenue Bonds, 1990 Series A (State Prison—Madera County).	
5240-101-001—For local assistance, Department of Corrections		25,829,000
Schedule:		
(a) 21-Institution Program	10,515,000	
(b) 31-Community Correctional Program	16,390,000	
(c) Unallocated trigger reduction	−1,076,000	
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.		

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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 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	

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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.		
2. The Parole and Community Services Division of the Department of Corrections shall develop a statewide policy for reconciling local assistance jail reimbursement requests prior to the department's approval of payment. The Department of Corrections shall report to the Joint Legislative Budget Committee and the Legislature's fiscal committees by November 30, 1991, concerning the proposed policy. All expenditures made from this item after January 1, 1992, shall conform to this policy.		
5240-301-751—For capital outlay, Department of Corrections, payable from the 1990 Prison Construction Fund		14,687,000
Schedule:		
(1) 61.01.001-Statewide—Budget Packages and Advance Planning.	200,000	
(2) 61.03.202-California Correctional Center at Susanville: Upgrade Primary and Secondary Electrical Distribution System—Study	108,000	
(3) 61.04.203-California Correctional Institution at Tehachapi: Brine Contamination Cleanup—Study	81,000	
(4) 61.04.204-California Correctional Institution at Tehachapi: Primary and Secondary Electrical Distribution System—Study	100,000	
(5) 61.06.012-Deuel Vocational Institution, Tracy: Vehicle Sallyport—Preliminary plans, working drawings and construction	285,000	
(7) 61.08.201-California Institution for Men, Chino: Upgrade Primary and Secondary Electrical Distribution System—Preliminary plans and working drawings	537,000	
(8) 61.12.406-California State Prison at San Quentin: Upgrade Primary and Secondary Electrical Distribution System—Construction	854,000	

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(9) 61.12.407-California State Prison at San Quentin: Replace 500 Level II Beds and Support Facilities—Working drawings and construction	4,408,000
(10) 61.12.408-California State Prison at San Quentin: Sewer Renovation for Existing Institution—Preliminary plans and working drawings	223,000
(11) 61.13.201-California Institution for Women, Frontera: Boilers and Boiler Facility Upgrade—Construction	3,414,000
(13) 61.13.510-California Institution for Women, Frontera: Brine Contamination Cleanup—Preliminary plans and working drawings	76,000
(14) 61.14.030-Minor Projects	3,500,000
(15) 61.15.411-California Rehabilitation Center, Norco: Upgrade Primary and Secondary Electrical Distribution System—Construction	753,000
(17) 61.16.202-Sierra Correctional Center, Jamestown: Upgrade Wastewater Treatment Plant—Preliminary plans	148,000

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, or working drawing and construction funds are expected to be included in the 1992–93 or 1993–94 Governor's Budget, and for which cost estimates or preliminary plans can be developed prior to legislative hearings on the 1992–93 and 1993–94 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

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construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future year.		
2. Thirty days prior to the expenditure of any funds provided in category (14), the Department of Corrections shall provide written notification to the Legislature of the following: (a) results of the study currently in process of the wastewater treatment plant, and (b) the scope of work necessary to correct any identified problems.		
5240-311-724—For capital outlay, Department of Corrections, payable from the 1984 Prison Construction Fund		571,945
Schedule:		
(1) 61.32.001-California State Prison-Madera County II: 2,000-Bed Women's Facility—Site studies and suitability reports, site acquisition, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items	571,945	
5240-311-746—For capital outlay, Department of Corrections, payable from the 1986 Prison Construction Fund		114,861,431
Schedule:		
(1) 61.32.001-California State Prison-Madera County II: 2,000-Bed Women's Facility—Site studies and suitability reports, site acquisition, environmental studies, master planning, architectural programming, schematics, preliminary plan, working drawings, construction, and long lead and equipment items	114,861,431	
5240-311-751—For capital outlay, Department of Corrections, payable from the 1990 Prison Construction Fund		36,400,000
Schedule:		
(1) 61.32.001-California State Prison-Madera County II: 2,000-Bed Women's Facility—Site studies and suitability reports, site acqui-		

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sition, environmental studies, master planning, architectural programming, schematics, preliminary plan, working drawings, construction, and long lead and equipment items..... 36,400,000

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 other specified) provided for in the appropriations:

Schedule:

747—1988 Prison Construction Fund

(1) Item 5240-301-747(1), Budget Act of 1990, 61.03.200—California Correctional Center at Susanville: Emergency Electrical System Improvements—Construction augmentation.

(2) Item 5240-301-747(2), Budget Act of 1990, 61.09.200—California Medical Facility: Emergency Electrical System Improvements—Construction augmentation.

(3) Item 5240-301-747(3), Budget Act of 1990, 61.12.400—California State Prison at San Quentin: Emergency Electrical System Improvements—Construction augmentation.

(4) Item 5240-301-747(5), Budget Act of 1990, 61.16.200—Sierra Correctional Center, Jamestown: Emergency Electrical System Improvements—Construction augmentation.

(5) 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, as reappropriated by Item 5240-490, Budget Act of 1990.

(6) Item 5240-311-747(2), Budget Act of 1989, 61.01.501—Statewide: Emergency Modifications to Accommodate Overcrowding, Phase II, as reappropriated by Item 5240-490, Budget Act of 1990.

(7) Item 5240-301-747(2), Budget Act of 1988, 61.03.200—California Correctional Center at Susanville: Emergency Electrical System Improvements—Construction as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.

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(8) Item 5240-301-747(3), Budget Act of 1988, 61.04.200—California Correctional Institution at Tehachapi: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.	
(9) Item 5240-301-747(5), Budget Act of 1988, 61.05.200—Correctional Training Facility, Soledad: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.	
(10) Item 5240-301-747(10), Budget Act of 1988, 61.06.200—Deuel Vocational Institution, Tracy: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.	
(11) Item 5240-301-747(12), Budget Act of 1988, 61.07.200—California State Prison at Folsom: Emergency Electrical System Improvements—Construction, as reappropriated by Budget Acts of 1989 and 1990.	
(12) Item 5240-301-747(15), Budget Act of 1988, 61.08.200—California Institution for Men, Chino: Emergency Electrical System Improvements—Construction as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.	
(13) 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 Acts of 1989 and 1990.	
(14) Item 5240-301-747(23), Budget Act of 1988, 61.12.400—California State Prison at San Quentin: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.	
(15) 5240-301-747(28), Budget Act of 1988, 61.16.200—Sierra Correctional Center, Jamestown: Emergency Electrical System Improvements—Construction, as reappropriated by Item 5240-490, Budget Acts of 1989 and 1990.	

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751—1990 Prison Construction Fund

(16) Item 5240-301-751(4), Budget Act of 1990, 61.05.502—Correctional Training Facility, Soledad: Custody Administration Building, South Facility—Working drawings and construction.

(17) Item 5240-301-751(5), Budget Act of 1990, 61.05.503—Correctional Training Facility, Soledad: New Gymnasium Building, South Facility—Construction.

(18) Item 5240-301-751(7), Budget Act of 1990, 61.06.008—Deuel Vocational Institution, Tracy: Replace Locking Device System, East and West Halls—Construction.

(19) Item 5240-301-751(9), Budget Act of 1990, 61.06.503—Deuel Vocational Institution, Tracy: 100-Bed Dormitory, Minimum Facility—Working drawings and construction.

(20) Item 5240-301-751(15), Budget Act of 1990, 61.12.406—California State Prison at San Quentin: Upgrade Primary and Secondary Electrical Distribution System—Preliminary plans and working drawings.

(21) Item 5240-301-751(16.5), Budget Act of 1990, 61.13.201—California Institution for Women, Frontera: Boilers and Boiler Facility Upgrade—Preliminary plans and working drawings.

(22) Item 5240-301-741(19), Budget Act of 1990, 61.15.410—California Rehabilitation Center, Norco: New Domestic Water Supply System —Working drawings and construction.

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:

747—1988 Prison Construction Fund

(1) Chapter 1479, Section 3(b)(2), Statutes of 1988, 61.28.001—California State Prison—Delano in Kern County: 1,750-bed reception center and 500-bed Level III prison with 200-bed service facility—Acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming,

Item Amount

schematics, preliminary plans, working drawings construction, and long lead and equipment items.

(2) Chapter 1479, Section 3(a)(2), Statutes of 1988, 61.27.001—California State Prison—Wasco in Kern County: 1,750-bed reception center and 500-bed Level III prison with a 200-bed service facility—Acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings construction, and long lead and equipment items.

(3) Chapter 1479, Section 3(d), Statutes of 1988, as amended by Chapter 1003, Section 2, Statutes of 1989, 61.01.705—General Population Facilities—Site studies and suitability reports, environmental studies, master planning, architectural programming and schematics.

(4) Chapter 1479, Section 3(e), Statutes of 1988, 61.01.706—New Correctional Facilities—Site studies and suitability reports, environmental studies, master planning, architectural programming and schematics.

5240-495—Reversion, Department of Corrections. Notwithstanding any other provisions of law, $36,400,000 of the unencumbered balance of the following appropriation shall revert to the unappropriated surplus of the 1990 Prison Construction Fund:

751—1990 Prison Construction Fund

(1) Chapter 981, Section 7(c)(1), Statutes of 1990, 61.33.001—California State Prison—Lassen County: 100-bed reception center and 1,900 Level II prison with a 200-bed support services facility—Site studies and suitability reports, site acquisition, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long lead and equipment items.

5240-496—Reversion, Department of Corrections. Notwithstanding any other provisions of law, the unencumbered balances of the following appropriations shall revert to the unappropriated surpluses of the respective funds, as specified:

Item		Amount
724—1984 Prison Construction Fund		
(1) 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, and long lead and equipment items as reappropriated by Section 16304.2 of the Government Code.		
746—1986 Prison Construction Fund		
(2) Chapter 165, Section 4, Statutes of 1987, 61.20.009—California Reception Center—Los Angeles County: 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, and long lead and equipment items as reappropriated by Section 16304.2 of the Government Code.		
(3) Chapter 165, Section 5(a) (2), Statutes of 1987, 61.20.011—California Reception Center—Los Angeles County: 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, and long lead and equipment items as reappropriated by Section 16304.2 of the Government Code.		
5430-001-001—For support of the Board of Corrections		560,000
Schedule:		
(a) 11-Standards for Detention Facilities	836,000	
(b) 12-County Jail Construction Financing Program	1,995,000	
(c) 21-Standards and Training for Local Officers	2,009,000	
(d) Program 31.01-Administration	248,000	
(e) Program 31.02-Distributed Administration	−248,000	
(f) Unallocated trigger reduction	−7,000	

Item		Amount
(g) Amount payable from the Corrections Training Fund (Item 5430-001-170)	−2,009,000	
(h) Amount payable from the County Jail Capital Expenditure Bond Act of 1981 (Item 5430-001-725)	−1,151,000	
(i) Amount payable from the County Jail Capital Expenditure Bond Act of 1984 (Item 5430-001-727)	−591,000	
(j) Amount payable from the New Prison Construction Bond Act of 1990 (Item 5430-001-751)	−70,000	
(k) Amount payable from the County Jail Capital Expenditure Fund, Bond Act of 1988 (Item 5430-001-796)	−452,000	
5430-001-170—For support of the Board of Corrections, for payment to Item 5430-001-001, payable from Corrections Training Fund		2,009,000
5430-001-725—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 1981		1,151,000
5430-001-727—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 1984		591,000
5430-001-751—For support of the Board of Corrections, for payment to Item 5430-001-001, payable from the New Prison Construction Fund, Bond Act of 1990		70,000
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		452,000
5430-021-170—For transfer by the State Controller from the Corrections Training Fund to the General Fund, any reserve in excess of five percent of the expenditures authorized in Item 5430-001-170 and Item 5430-101-170, as of June 30, 1992		(0)
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
5440-001-001—For support of the Board of Prison Terms		12,262,241

Item		Amount
Schedule:		
(a) 10-Board of Prison Terms	12,511,241	
(b) Trigger reduction	−249,000	
5450-001-001—For support of the Youthful Offender Parole Board		2,452,000
Schedule:		
(a) 10-Youthful Offender Parole Board	2,566,000	
(b) Trigger reduction	−114,000	
Provisions:		
1. It is the intent of the Legislature that during the first eight months of the 1991–92 fiscal year, the Youthful Offender Parole Board (YOPB) shall do both of the following:		
(a) Establish parole consideration dates at all initial appearances that, on average, based on the number of months assigned, do not exceed the prescribed parole consideration date intervals for each of the appropriate offense categories as established in Title 15 of the California Code of Regulations effective July 1, 1991.		
(b) Grant time-cuts and time-adds that do not exceed a net increase of one month per ward.		
2. It is the intent of the Legislature that the balance of the YOPB's budget be restored only upon certification by the Department of the Youth Authority that the board has met the requirements of this language.		
3. The YOPB shall continue to provide quarterly reports to the committee in each house which considers appropriations regarding parole consideration dates, and include in that report, the net effect of time-cuts and time-adds.		
5460-001-001—For support of the Department of the Youth Authority		298,218,000
Schedule:		
(a) 10-Prevention and Community Corrections	4,971,000	
(b) 20-Institutions and Camps	280,765,000	
(c) 30-Parole Services	40,437,000	
(d) 50.01-Administration	17,507,000	
(e) 50.02-Distributed Administration	−17,290,000	
(f) Unallocated trigger reduction	−7,189,000	
(g) Reimbursements	−18,086,000	

Item		Amount
(h) Amount payable from the County Correctional Facility Capital Expenditure Bond Act of 1988 (Item 5460-001-796)	−348,000	
(i) Amount payable from the State Lottery Education Fund (Item 5460-001-831)	−1,382,000	
(j) Amount payable from the Federal Trust Fund (Item 5460-001-890)	−1,167,000	

Provisions:

1. 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.
2. No funds appropriated in this item may be used to support a free venture employment program unless the Department of the Youth Authority adopts policies prohibiting the use of participating wards as strikebreakers.

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 348,000

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 1,382,000

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 1,167,000

5460-011-001—For support of the Department of the Youth Authority (Proposition 98) 32,549,000

Schedule:

(b) 20—Institutions and Camps 32,549,000

5460-101-001—For local assistance, Department of the Youth Authority 3,688,000

Item		Amount
Schedule:		
(b) 20-Institutions and Camps	95,000	
(c) 30-Parole Services	3,705,000	
(d) Unallocated trigger reduction	−112,000	
Provisions:		
2. Of the amount appropriated within Schedule (b), $95,000, less amounts reduced due to allocation of the trigger reduction in Schedule (d), is available to pay the transportation costs of persons committed to the Department of the Youth Authority to or between its facilities, including the return of parole violators; provided, that expenditures made under this item shall be charged to 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, less amounts reduced due to allocation of the trigger reduction in Schedule (d), 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.		
5460-301-751—For capital outlay, Department of the Youth Authority, payable from the 1990 Prison Construction Fund		4,356,000
Schedule:		
(1) 60.01.035-Statewide: Budget Packages and Advanced Planning	100,000	
(4) 60.54.040-Fred C. Nelles School: New Infirmary—Construction	1,362,000	
(5) 60.54.045-Fred C. Nelles School: Multipurpose Building—Preliminary plans	60,000	

Item		Amount
(8) 60.67.040-Youth Training School: Kitchen Renovation—Preliminary plans and working drawings	178,000	
(9) 60.90.010-Minor Projects	2,656,000	

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 1992–93 or 1993–94 Governor's Budget, and for which cost estimates and/or preliminary plans can be developed prior to legislative hearings on the 1992–93 or 1993–94 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.

5460-490—Reappropriation, Department of the Youth Authority. Notwithstanding any other provision of law, $2,032,000 of the unencumbered 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:

751-1990 Prison Construction Fund

(1) Item 5460-301-751(7), Budget Act of 1990, 60.90.010-Minor Projects.

5770-001-001—For support of the Robert Presley Institute of Corrections Research and Training, Program 10 431,000

EDUCATION

6110-001-001—For support of Department of Education 45,690,000

Schedule:

(a) 10-Instruction	45,050,000	
(b) 20-Instructional Support	32,502,000	

Item		Amount
(c)	30-Special Programs	18,434,000
(d)	41.00-Executive Management and Special Services	9,850,000
(e)	42.01-Department Management and Special Services	30,817,000
(f)	42.02-Distributed Department Management and Special Services	−30,817,000
(g)	Unallocated trigger reduction	−1,059,000
(h)	Reimbursements	−9,764,000
(i)	Amount payable from Federal Trust Fund (Item 6110-001-890)	−49,323,000

Provisions:

1. Of the funds appropriated in this item, $100,000 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, $694,000 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 amount appropriated in this item, $3,350,000 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.
5. 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.
6. 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.
7. $50,000 of the funds appropriated in this item are available, under oversight of the Office of

Item		Amount
	the Legislative Analyst, for administration of the independent evaluation of education restructuring required by Sections 58920 to 58922, inclusive, of the Education Code. Up to $1,000 of this amount may be transferred to and expended by the Office of the Legislative Analyst, and up to $1,000 may be expended by the State Department of Education, to pay for overhead costs associated with supervision of a contract with an evaluator.	
	8. Of the funds appropriated in this item, $405,000 is for the purpose of planning and implementation of the Demonstration of Restructuring in Public Education authorized by Chapter 1556, Statutes of 1990. Notwithstanding any other provision of law, the Superintendent of Public Instruction may grant any portion of this amount not required for program administration to one or more local educational agencies or consortia of local educational agencies to provide outreach and assistance to schools and districts in planning and implementing the restructuring demonstrations.	
	10. Of the funds appropriated in this item, $250,000 shall be available only for the state's defense costs in school finance litigation. These funds shall be expended only upon the approval of the Director of Finance.	
	11. Of the funds appropriated in this item, $5,000,000 is for the purposes of a pupil testing 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		914,000
6110-001-231—For support of the Department of Education, Program 20.10.045—Health and Physical Education, to administer the Tobacco Use Prevention Program, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund		900,000
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		1,422,000

Item	Amount
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.	
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	13,531,000
6110-001-890—For support of Department of Education, for payment to Item 6110-001-001, payable from the Federal Trust Fund	49,323,000
Provisions: 1. The funds appropriated in this item include 1991–92 Federal Vocational Education Act funds to 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.	

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5. 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.

6. Of the funds appropriated in this item, $364,000 shall be used to provide inservice training for teachers of the severely handicapped. These funds are also to provide four positions for this purpose.

7. Of the funds appropriated in this item, $500,000 shall be used to provide training, technical assistance, and resources to educational personnel, care providers, families, and others who work with individuals with dual sensory impairments. These funds are also to provide 5.5 positions for this purpose.

Item			Amount
8. Of the funds appropriated in this item, $318,000 shall be used to provide training in culturally non-biased assessment and specialized language skills to special education teachers through Second Language Immersion Institutes.			
9. Of the funds appropriated in this item, $150,000 shall be used to contract for the analysis of special education student level data and to establish a format to be used for ongoing analysis of this data.			
10. Of the funds appropriated in this item, from the amount of federal Adult Basic Education (PL 100-297) funds designated for state operations, the Department of Education is authorized to add one consultant and one half support positions to provide oversight, coordination, quality control and accountability of education programs for adults in correctional facilities, pursuant to Section 41841.5 of the Education Code. The Department of Education shall use these positions to study and identify the factors that have led to a rapid growth in ADA generated by adult education provided in correctional facilities.			
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			30,204,000
Schedule:			
(a) 10.60.040-Instruction		31,332,000	
(1) 10.60.040.001-School for the Blind, Fremont	3,186,000		
(2) 10.60.040.002-School for the Deaf, Fremont	9,033,000		
(3) 10.60.040.003-School for the Deaf, Riverside	7,955,000		
(4) 10.60.040.004-Diagnostic School for the Neurologically Handicapped, North	4,110,000		

Item			Amount
(5) 10.60.040.005-Diagnostic School for the Neurologically Handicapped, South	3,528,000		
(6) 10.60.040.006-Diagnostic School for the Neurologically Handicapped, Central	3,520,000		
(b) Unallocated trigger reduction		−785,000	
(c) Reimbursements		−343,000	

Provisions:

1. Of the amount appropriated in this item, $362,000 shall be available for the assessment centers at the State Special Schools.
2. Of the funds provided to the Diagnostic School for the Neurologically Handicapped, North, $100,000 is for expansion of the diagnostic program for drug-exposed preschool children. These funds shall be in addition to funds already being expended for this purpose.

6110-006-001—For support of Department of Education (Proposition 98), as allocated by the Department of Education to the State Special School 15,765,000

Schedule:

(a) 10.60.040-Instruction, State Special Schools		18,475,000	
(1) 10.60.040.001-School for the Blind, Fremont	2,777,000		
(2) 10.60.040.002-School for the Deaf, Fremont	8,311,000		
(3) 10.60.040.003-School for the Deaf, Riverside	7,387,000		
(b) Reimbursements		−3,510,000	
(c) Amount payable from the Lottery Education Fund (Item 6110-006-814)		−110,000	
(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

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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.

6110-006-814—For support of Department of Education, for payment to Item 6110-006-001, payable from the Lottery Education Fund 110,000

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.

Item		Amount
6110-015-001—For support of Department of Education, Program 20.20.020—Instructional Materials Management and Distribution		342,000
Provisions:		
1. Funds appropriated by this item are for transfer by the Controller, to the State Instructional Materials Fund, for allocation during the 1991–92 fiscal year, pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education.		
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		10,474,489,000
Schedule:		
(a) Program 10.10.001.001—School Apportionments, District Revenue Limit, for the purposes of Section 42238 of the Education Code	10,373,483,000	
(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	10,196,500	

Item		Amount
(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	21,035,000
(d)	Program 10.10.001.005—School Apportionments, for apprentice programs, for the purposes of Section 8152 of the Education Code.	4,199,500
(e)	Program 10.10.011—School Apportionments, for summer school programs, for the purposes of Section 42239 of the Education Code	53,859,000
(f)	Program 10.10.012—1989–90 deficiency authorization for School Apportionments	11,716,000

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 1991–92 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,

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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, 1991, on the amount of funds expended for and the hours of related and supplemental instruction offered in the apprentice program during the 1990–91 fiscal 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 1991–92 and 1992–93 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

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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 1991–92 fiscal year.

The reduction shall be calculated as follows:

(a) Determine the amount of employer contributions which would have been made in the 1991–92 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 1991–92 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 1991–92 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 Instruc-

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tion 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 1991–92 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 1991–92 fiscal year.

8. (a) Notwithstanding paragraph (2) of subdivision (d) of Section 42239 of the Education Code, or any other provision of the law, for the 1991–92 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 1991–92 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 1991–92 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 1991–92 fiscal year determined pursuant to subdivision (c) of Section 42239 of the Education Code.

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(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 Superintendent of Public Instruction on or before November 15, 1991, 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 1991–92 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 1991–92 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

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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 pursuant to subdivision (a) of Section 46200 of the Education Code and which offers less than 180 days of instruction in the 1991–92 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 1991–92 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. Notwithstanding any other provision of law, a local school district shall be eligible to claim ap-

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portionments for K–12 pupils as concurrently enrolled in adult education in 1991–92 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. For districts that generated 5 ADA or less in the 1990–91 fiscal year, 1988–89 shall be used as the base year to determine the allowable ADA growth for purposes of claiming apportionment for K–12 pupils concurrently enrolled in adult education.

13. 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 (2) of subdivision (b) of Section 46300.1 of the Education Code or at a rate funded during 1989–90, whichever is less.
14. 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 have been continuously enrolled in a K–12 program since their 18th birthday.
15. 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.
    (a) In accordance with existing law, any pupil whose attendance must be recorded in clock hours pursuant to Section 406 of Title V of the California Code of Regulations shall not be credited with a full clock hour of attendance for attending a class or portion of a class in session for fewer than sixty (60) minutes.
    (b) Hours of apportionment credit earned by any continuation pupil in any schoolday pursuant to Section 46010 shall be proportionately reduced if the pupil is scheduled to attend for a rate greater than 15 hours

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per 5-day week.

(c) For 1991–92, 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.

16. Notwithstanding any other provision of law, no local education agency shall receive apportionments for any pupil in independent study without written agreement with the parent or guardian of such pupil prior to the commencement of independent study. Such written agreement shall specify the actual dates of participation, the methods and objectives of the independent study program for such pupil.

(a) Notwithstanding any other provision, and notwithstanding any waiver by the State Board of Education of any formula or method of calculating revenue limits contained in any statute or administrative rule or regulation, any school district formed pursuant to a voter-approved action for the reorganization of any district that becomes effective for all purposes on or after July 1, 1991, shall have its revenue limit per unit of average daily attendance computed pursuant to Section 35735 of the Education Code.

(b) Provision (a) shall not apply to the unification of a new district which will have boundaries that are congruent to the June 30, 1991 boundaries of an existing high school district.

(c) Provision (a) shall not apply to any district formed pursuant to a voter-approved action for the unification of any district that becomes effective for all purposes on or after July 1, 1991 and which received a waiver of Education Code Section 35735 from the State Board of Education prior to June 30, 1991. The increase in the revenue limit per unit of average daily attendance calculated pursuant to clause (2) of subdivision (a) of Section 35735 of the Education Code for any such district shall, notwithstanding any waiver by the State

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Board of Education, not exceed 10 percent of the revenue limit calculated pursuant to clause (1) of subdivision (a).	
17. Of the amount appropriated in this item, $11,716,000 is to fund the 1989–90 district apportionment deficiency and shall be applied toward meeting the 1991–92 Proposition 98 minimum funding requirements.	
18. 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 ADA for the Perris Union High School District by 280 units in the 1991–92 fiscal year only. In each of the fiscal years 1992–93 through 1996–97, the Superintendent shall reduce the district's number of units of ADA by 56 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 fiscal impacts of a reorganization election which reduced the district's ADA by 38 percent for the 1991–92 fiscal year. It is further the intent of the Legislature that such assistance be provided at no net cost to the state.	
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	613,542,000
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 Elementary and Secondary Education Act, payable from the Federal Trust Fund	40,435,000
Schedule:	
(a) 10-Instruction	38,973,000
(b) 20-Instructional support	1,462,000

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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 1991–92 fiscal year on September 1, December 1, February 1, and May 1.

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 248,496,000

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 1991–92 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

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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, $7,845,000 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 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 123,330,000

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 1991–92 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 for any cost-of-living adjustment shall be the maximum amount allocated for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of the Education Code.

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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-mandated portion of the employer contributions to the Public Employees' Retirement System, through the 1991–92 fiscal year. The reduction shall be calculated as follows:
   (a) Determine the amount of employer contributions which would have been made in the 1991–92 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect in 1981–82 were in effect during the 1991–92 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 1991–92 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.

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(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 1991–92 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 1991–92 fiscal year.

4. Of the amount appropriated in this item, $150,000 is for allocation to the Alameda County Office of Education for the Oakland Unified School District Trustee pursuant to Chapter 1438, Statutes of 1989.
5. Of the amount appropriated in this item, $119,000 is for allocation to the Sacramento County Office of Education pursuant to Chapter 1358, Statutes of 1989.
6. 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.
7. Notwithstanding any other provision of law, any county superintendent of schools operating (i)

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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 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	

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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 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.

8. 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.
9. 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 (2) of

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subdivision (b) of Section 46300.1 of the Education Code, or at the rate funded during 1989–90, whichever is less.	
10. Of the amount appropriated in this item, $200,000 shall be transferred to the Local Management Support Fund for the purposes of AB 1200 upon enactment.	
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	32,604,154
Provisions:	
1. Of the amount appropriated in this item, not more than 4.9 percent may be transferred, upon order of the Director of the Department of Finance, to support the state administrative costs of the Child Development and Education Agency.	
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	185,400,000
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....	8,298,000
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.	
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	343,682,000

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	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.....	340,282,000
	(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.....	3,400,000
	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 1991–92 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. In addition to the purposes specified in the provisions above, funds are included in category (a) for small school district transportation aid pursuant to Section 42240 of the Education Code.	

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6110-113-001—For local assistance, Department of Education (Proposition 98), for purposes of a pupil testing program		5,000,000
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		438,457,000
Schedule:		
(1) 10.10.018.005-Bakersfield Unified Elementary School District	4,300,000	
(2) 10.10.018.010-Los Angeles Unified School District	325,500,000	
(3) 10.10.018.015-San Bernardino Unified School District	8,900,000	
(4) 10.10.018.020-San Diego Unified School District	44,700,000	
(5) 10.10.018.025-San Francisco Unified School District	29,000,000	
(6) 10.10.018.030-San Jose Unified School District	22,000,000	
(7) 10.10.018.035-Stockton Unified School District	3,500,000	
(8) 10.10.018.040-Palo Alto Unified School District	300,000	
(9) 10.10.018.050-Redwood City Elementary School District	21,000	
(10) 10.10.018.055-San Mateo County Superintendent	60,000	
(11) 10.10.018.060-Santa Clara County Office of Education	10,000	
(12) 10.10.018.065-Sequoia High School District	112,000	
(13) 10.10.018.070-Menlo Park City Elementary School District	1,000	
(14) 10.10.018.075-Ravenswood City Elementary School District	53,000	
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 pro-		

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visions 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 1991–92 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.

   This provision 5 shall not exclude reimbursement for costs of remodeling a cafeteria stage in the San Jose Unified School District. Such costs shall be funded from the existing apropriation and shall not exceed a total of $700,000 in the 1991–92 fiscal year. It is the intent of the Legislature that this paragraph of provision 5 shall be valid only until June 30, 1993.
6. Notwithstanding any other provision of law, effective July 1, 1991, and no school district shall be required to comply with Sections 90 to 101, inclusive, of Title 5 of the California Code of Regulations. Any costs incurred after that date in compliance with those regulations shall be deemed incurred voluntarily and shall not be re-

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	imbursable as a state-mandated local program. Nothing in this provision shall be interpreted to deny reimbursement of claims for court-ordered or voluntary desegregation pursuant to Sections 42243.6, 42247, and 42249 of the Education Code.	
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		75,874,000
Schedule:		
(1) 10.10.019.001—Instruction: School Apportionments-voluntary desegregation-Pittsburg Unified School District	5,000	
(2) 10.10.019.002—Instruction: School Apportionments-voluntary desegregation-Richmond Unified School District	5,335,000	
(3) 10.10.019.003—Instruction: School Apportionments-voluntary desegregation-Fresno Unified School District	4,975,000	
(4) 10.10.019.004—Instruction: School Apportionments-voluntary desegregation-Brawley Elementary School District	79,000	
(5) 10.10.019.005—Instruction: School Apportionments-voluntary desegregation-El Centro Elementary School District	354,000	
(6) 10.10.019.006—Instruction: School Apportionments-voluntary desegregation-Bakersfield City Elementary School District	562,000	
(7) 10.10.019.007—Instruction: School Apportionments-voluntary desegregation-Hanford Unified School District	12,000	
(8) 10.10.019.008—Instruction: School Apportionments-voluntary desegregation-Long Beach Unified School District	5,462,000	

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(9) 10.10.019.009—Instruction: School Apportionments-voluntary desegregation-Los Angeles Unified School District	32,935,000
(10) 10.10.019.010—Instruction: School Apportionments-voluntary desegregation-Pasadena City Unified School District	2,962,000
(11) 10.10.019.011—Instruction: School Apportionments-voluntary desegregation-Santa Monica-Malibu School District	306,000
(12) 10.10.019.012—Instruction: School Apportionments-voluntary desegregation-Whittier Union High School District	444,000
(13) 10.10.019.013—Instruction: School Apportionments-voluntary desegregation-Merced City Elementary School District	81,000
(14) 10.10.019.014—Instruction: School Apportionments-voluntary desegregation-Monterey Peninsula Unified School District	135,000
(15) 10.10.019.015—Instruction: School Apportionments-voluntary desegregation-North Monterey County Unified School District	353,000
(16) 10.10.019.016—Instruction: School Apportionments-voluntary desegregation-Fullerton Elementary School District	146,000
(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	265,000
(19) 10.10.019.019—Instruction: School Apportionments-voluntary desegregation-Sacramento City Unified School District	547,000

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(20) 10.10.019.020—Instruction: School Apportionments-voluntary desegregation-San Bernardino City Unified School District.	1,999,000
(21) 10.10.019.021—Instruction: School Apportionments-voluntary desegregation-Chula Vista City Unified School District.....	260,000
(22) 10.10.019.022—Instruction: School Apportionments-voluntary desegregation-San Diego City Unified School District.....	6,117,000
(23) 10.10.019.023—Instruction: School Apportionments-voluntary desegregation-Sweetwater Union High School District.....	352,000
(24) 10.10.019.024—Instruction: School Apportionments-voluntary desegregation-San Francisco Unified School District.....	3,007,000
(25) 10.10.019.025—Instruction: School Apportionments-voluntary desegregation-San Mateo City Elementary School District...	173,000
(26) 10.10.019.026—Instruction: School Apportionments-voluntary desegregation-San Mateo Union High School District.....	66,000
(27) 10.10.019.027—Instruction: School Apportionments-voluntary desegregation-Sequoia Union High School District.....	53,000
(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.....	32,000
(30) 10.10.019.030—Instruction: School Apportionments-voluntary desegregation-Mountain View-Los Altos High School District.....	60,000

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(31) 10.10.019.031—Instruction: School Apportionments-voluntary desegregation-San Jose City Unified School District	1,109,000
(32) 10.10.019.032—Instruction: School Apportionments-voluntary desegregation-Pajaro Valley Unified School District	897,000
(33) 10.10.019.033—Instruction: School Apportionments-voluntary desegregation-Oxnard Elementary School District	395,000
(34) 10.10.019.034—Instruction: School Apportionments-voluntary desegregation-Santa Paula Elementary School District	811,000
(35) 10.10.019.035—Instruction: School Apportionments-voluntary desegregation-ABC Unified School District	25,000
(36) 10.10.019.036—Instruction: School Apportionments-voluntary desegregation-Ventura Unified School District	72,000
(37) 10.10.019.037—Instruction: School Apportionments-voluntary desegregation-La Habra City Elementary School District	31,000
(38) 10.10.019.038—Instruction: School Apportionments-voluntary desegregation-Duarte Unified School District	28,000
(39) 10.10.019.039—Instruction: School Apportionments-voluntary desegregation-East Side Union High School District	69,000
(40) 10.10.019.040—Instruction: School Apportionments-voluntary desegregation-Berkeley City Unified School District	3,043,000
(41) 10.10.019.041—Instruction: School Apportionments-voluntary desegregation-Claremont Unified School District	203,000

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(42)	10.10.019.042—Instruction: School Apportionments-voluntary desegregation-Gilroy Unified School District	569,000
(43)	10.10.019.043-Instruction: School Apportionments-voluntary desegregation-Sunnyvale Elementary School District	161,000
(44)	10.10.019.044-Instruction: School Apportionments-voluntary desegregation-Oakland Unified School District	163,000
(45)	10.10.019.045-Instruction: School Apportionments-voluntary desegregation-Norwalk-La Mirada City Unified School District	1,190,000
(46)	10.10.019.046-Instruction: School Apportionments-voluntary desegregation-Kerman Unified School District	8,000

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 1991–92 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

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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.
6. Effective July 1, 1991, and notwithstanding any other provision of law to the contrary, no school district shall be required to comply with Sections 90 to 101, inclusive, of Title 5 of the California Code of Regulations. Any costs incurred after that date in compliance with those regulations shall be deemed incurred voluntarily and shall not be reimbursable as a state-mandated local program. Nothing in this provision shall be interpreted to deny reimbursement of claims for court-ordered or voluntary desegregation pursuant to Sections 42243.6, 42247, and 42249 of the Education Code.

6110-116-001—For local assistance, Department of Education (Proposition 98), Program 20.60.030—School Improvement Program..... 328,490,000

Schedule:

(a) 20.60.030.010—For the purpose of making allowances for kindergarten and grades 1 to 6, inclusive... 275,069,000

(b) 20.60.030.020—For the purpose of making allowances for grades 7 to 12, inclusive 53,421,000

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 1991–92 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.

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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 pro rata basis to conform to the amounts scheduled above.	
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 for any cost of living adjustments 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, in lieu of the amount which would otherwise be appropriated pursuant to subdivision (b) of Section 19632 of the Business and Professions Code	360,000
Schedule:	
(a) 10.70-Instruction: Vocational Education 375,000	
(b) Trigger reduction ..... −15,000	
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	207,000
6110-119-001—For local assistance, Department of Education (Proposition 98), Program 20.40-Supple-	

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mentary Program Services, for the purposes of Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code and Article 2.3 (commencing with Section 48643) of Chapter 4 of Part 27 of the Education Code to be allocated according to the following schedule			3,882,000
Schedule:			
(a) 20.40.070-Opportunity Programs Incentives		1,618,000	
(b) 20.40.090-Specialized Secondary Programs		2,264,000	
Provisions:			
1. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (b) shall be the maximum amount allocated for the purposes of Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code.			
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			1,353,000
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.			
2. Of the funds appropriated in this item, $415,000 shall be used to fund two new Foster Youth Services programs to be selected through a competitive bid grant award process.			
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			12,089,000
Provisions:			
1. Of the amount appropriated in this item, $8,620,920 shall be available for the funding of			

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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, $1,452,800 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.
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 $43,104.
4. Of the amount appropriated in this item, $1,649,280 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.

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	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.	
6110-121-001—For local assistance, Department of Education (Proposition 98), Program 10.30.070 Economic Impact Aid		304,571,000
Schedule:		
(a) For allocation pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of the Education Code	211,819,313	
(b) For allocation pursuant to Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of, and Sections 54031 and 54033 of, the Education Code	92,751,687	
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 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 shall 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 Education Program, for the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code		32,632,000

Item	Amount
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 1991–92 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 for any cost-of-living adjustment shall be the maximum amount allocated for the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code.	
6110-126-001—For local assistance, Department of Education (Proposition 98), Program 20.10.035—Miller-Unruh Reading Program	22,409,000
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 low performing schools and the lowest 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), Program 41.00-Executive Management Special Services Community Education—Intergenerational Programs	130,000
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	45,000

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Schedule:		
(a) Local Assistance	47,000	
(b) Trigger reduction	−2,000	
6110-131-001—For local assistance, Department of Education (Proposition 98), Program 10.30.051—Native American Indian Education		410,000
6110-136-890—For local assistance, Department of Education, Program 10.30.060—Chapter I-ECIA—payable from the Federal Trust Fund		472,319,000
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		4,707,000

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 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 1991–92 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 1991–92 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.

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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 1991–92, 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 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 1,530,000

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.

6110-152-001—For local assistance, Department of Education..... 366,000

Schedule:

(a) 10.30.050-Instruction: American Indian Education Centers.....	382,000
(b) Trigger reduction.....	−16,000

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.

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6110-156-001—For local assistance, Department of Education (Proposition 98), Program 10.50.010.001—Adult Education	294,016,000

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 1991–92 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 1991–92 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 1991–92 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 any amount appropriated for any cost-of-living adjustment for this program shall be the maximum amount allocated for the purposes of Section 52616 of the Education Code.
4. $37,952,000 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 1991–92 fiscal year as follows:

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(a) $28,052,000 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 1991–92 for an amount equal to the ADA approved pursuant to subdivision 4(a) of Item 6110-156-001 of the Budget Act of 1990, 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 generated in 1990–91 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 1990–91 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 1990–91, gen-

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erated 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 1990–91, 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 1990–91, 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 1990–91, 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 1991–92 fiscal year, reallocate to school districts any unexpended balance of the amount in this subdivision for the 1991–92 fiscal year to those districts with unfunded growth in ESL, elementary, and high school basic skills in the 1991–92 fiscal year on a per ADA basis, not to exceed the statewide adult average revenue limit.

(b) $9,900,000 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

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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.

(c) 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 1991–92 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 the 1990–91 fiscal year, 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.

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 12,605,000

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6110-158-001—For local assistance, Department of Education (Proposition 98), 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			8,078,000
Schedule:			
(a) 10.50.010.002—Adult Education		6,807,000	
(b) 10.50.010.010—1990–91 deficiency for Adults in Correctional Facilities		1,271,000	
Provisions:			
1. Notwithstanding any other provision of law to the contrary, the amount appropriated in this item and any amount appropriated for any cost of living adjustment for this program shall be the maximum amount allocated for the purposes of Section 41841.5 of the Education Code.			
2. Notwithstanding Section 41841.5 of the Education Code or any other provision of law to the contrary, the amount appropriated in this item shall be allocated based upon prior rather than current year expenditures.			
3. Notwithstanding Section 41206 of the Education Code or any other provision of law, the amount appropriated in category (b) of this item is for payment of 1990–91 deficiency expenditures for the Adults in Correctional Facilities program and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.			
6110-160-001—For local assistance, Department of Education			206,000
Schedule:			
(a) 10.60-Special Education Programs for Exceptional Children		215,000	
(b) Trigger reduction		−9,000	
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			1,484,400,000

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	Provisions:	
	Schedule:	
(a)	10.60.000.000 Instruc-Special Ed Prog for Exceptional Children	1,477,801,000
(b)	10.60.001.000 1990–91 deficiency authorization for Special Ed Prog for Excep Children	2,064,000
(c)	10.60.002.000 1989–90 deficiency authorization for Special Ed Prog for Excep children	4,535,000

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 1991–92 fiscal year pursuant to Sections 14002 and 41301 of the Education Code, for apportionment pursuant to Part 30 of the Education Code, superseding all prior law.
2. Of the amount appropriated in this item, $77,977,000 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 1990–91 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.
3. The number of units to be recaptured shall be calculated pursuant to Section 56728.6 of the Ed-

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	ucation 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 2. After maximizing the existing units, growth shall be calculated pursuant to the standards in Provision 2. 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. 4. Of the amount appropriated in this item, $500,000 shall be available only for units approved by waiver for SELPA's with small or sparse populations pursuant to Chapter 1135, Statutes of 1990. 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. 5. Of the amount appropriated in this item, $1,087,000 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. 6. Of the amount appropriated in this item, no more than $326,000 shall be available for the purposes of Section 56775.5 of the Education Code. 7. $7,599,000 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. 8. $3,799,000 of the funds appropriated in this item are available for the purposes of PL 101-392, 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	

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	the amount of nonfederal resources, exclusive of funds received pursuant to this provision, devoted to the provision of vocational education for special education pupils shall be maintained at or above the level provided in 1984–85. The Superintendent of Public Instruction may waive this requirement for agencies which can demonstrate that the requirement would impose a severe hardship.	
	9. 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.	
	10. Credit for participating in adult education classes or programs may not be generated for apportionment purposes, pursuant to Education Code Section 42238.5, by a special day class pupil until the pupil has met the minimum day requirement in Education Code Section 46141.	
	11. Notwithstanding Section 41206 of the Education Code or any other provision of law, the amount appropriated in schedule (b) of this item is for payment of the 1990–91 deficiency expenditures for the Special Education Program and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.	
	12. Notwithstanding Section 41206 of the Education Code or any other provision of law, the amount appropriated in schedule (c) of this item is for payment of the 1989–90 deficiency expenditures for the Special Education Program and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.	
6110-161-890—For local assistance, Department of Education, payable from the Federal Trust Fund, Program 10.60—Special Education Programs for Exceptional Children		211,926,000
Schedule:		
(a) 10.60.050.010-PL 94-142, local entitlements	162,666,000	
(b) 10.60.050.020-PL 94-142, direct and indirect instructional services approved in the State Plan	11,466,000	

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(c)	10.60.050.030-PL 99-457, Preschool Grant Program	33,228,000
(d)	10.60.030-IDEA, Title VIC, Deaf-Blind Center	9,000
(e)	10.60.050.040-IDEA, 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-IDEA, Title VIC, Least Restrictive Environment	260,000

Provisions:

1. If the funds for Part B of the Individuals with Disabilities Act that are actually received by the state exceed $183,183,000, at least 95 percent of the funds received in excess of that amount shall be allocated for local entitlements. Five percent (5%) of the amount received in excess of $183,183,000 may be used for state administrative expenses.

   If the funds for Part B of the Individuals with Disabilities Act that are actually received by the state are below $183,183,000, 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, $2,425,000 shall be allocated to local education agencies for the purposes of Project WorkAbility I.
5. Of the funds appropriated in Schedule (b) of this item, $1,700,000 shall be used to provide specialized services to pupils with low incidence disabilities, as defined in Section 56026.5 of the Education Code.

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6. Of the funds appropriated in Schedule (b) of this item, $3,617,000 shall 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 shall be used for in-service training programs. This program shall include state-sponsored and local components.
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, $200,000 shall be used for pilot programs to regionalize services for pupils with low incidence disabilities.

6110-162-001—For local assistance, Department of Education (Proposition 98), Program 10.60.060—Alternatives to Special Education 1,620,000

Schedule:

(a) 10.60.060.010-Early Intervention for School Success 1,620,000

Provisions:

1. The funds appropriated in this item are to contract with the Orange County Office of Education for the Early Intervention for School Success Program.

6110-165-001—For local assistance, Department of Education 6,912,000

Schedule:

(a) 10.70—Vocational Education 33,456,000
(b) Trigger reduction ..... −288,000
(c) Reimbursements ..... −26,256,000

Provisions:

1. $25,112,000 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, $6,912,000 are available for the purpose of matching Job

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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.	
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	3,000,000
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. The funds appropriated in this item include 1991–92 Federal Vocational Education Act funds to 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 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 shall report, not later than November 15 of each year, to the Joint Legislative Budget Committee, to the Director of Finance, and to the California State 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.
5. It is the intent of the Legislature that the State Board of Education amend the California State Plan for Carl D. Perkins Vocational and Applied Technology Act to include the use of $814,000 of funds granted under Section 201 of the act for support of Partnership Academies.

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6. Any local education agency or area vocational education school receiving an allocation of funds appropriated in this item based upon the prior-year-served number of disabled pupils who had individualized education programs, pursuant to Section 1414 (a)5 of Title 20 of the United States Code, shall expend these funds solely for the purpose of providing career-vocational education programs to disabled pupils with individualized education programs.	
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	3,233,000
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 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.....	(10,000,000)
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	

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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 allocated during 1991–92 for the purposes of Sections 41304, 41306, 41900 and 41909 of the Education Code shall be made exclusively from funds appropriated in this item. 3. Notwithstanding any other provisions of law, amounts allocated from this item shall be calculated based upon 1989–90 expenditures, and shall be allocated in accordance with 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 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—Emergency Immigrant Education Program, payable from the Federal Trust Fund	13,610,000
6110-180-001—For local assistance, Department of Education (Proposition 98), Program 20.10.025 —Institute for Computer Technology.....	428,000
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 — Educational Technology ..	13,977,000

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6110-181-140—For local assistance, Department of Education, Program 20.10.055-Environmental Education, payable from the California Environmental License Plate Fund	804,000
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) 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	107,131,000

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 1991–92 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, 1992.

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2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disbursement by the Department of Education from the State Instructional Materials Fund.
3. Notwithstanding the provisions of Part 33 (commencing with Section 60000) of the Education Code, and pursuant to the August 27, 1981, decision of the California Supreme Court in California Teachers' Association vs. Riles, no part of the funds appropriated herein shall be used to provide instructional materials for nonpublic schools or students.
4. No pupil textbooks shall be adopted by the State Board of Education and no funds shall be available to finance contracts for textbooks in which the royalty amount exceeds 55 percent of the completed book bid, which is the total cost less sales tax less all freight. Royalty amounts payable shall be adjusted in subsequent years in conformance with the Consumer Price Index —All Items, of the Bureau of Labor Statistics of the United States Department of Labor, provided that such adjustment shall occur only when the completed book bid is revised, pursuant to Sections 60201 and 60223 of the Education Code.
5. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and for any cost-of-living adjustment for this program shall be the maximum amount allocated for the purpose of Section 60246 of the Education Code.
6. In the 1991–92 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, 1991.

6110-187-001—For local assistance, Department of Education (Proposition 98), Program 20.20.020.002 —Instructional Materials Management and Distribution—Grades 9–12 27,043,000

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Provisions:

1. Funds appropriated by this item are for transfer by the Controller to the State Instructional Materials Fund, for allocation during the 1991–92 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, 1992.
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. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and for any cost-of-living adjustment shall be the maximum amount allocated for the purpose of Section 60247 of the Education Code.
5. In the 1991–92 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, 1991.

6110-191-001—For local assistance, Department of Education (Proposition 98), Program 20.60-Staff Development 106,791,000

Schedule:

(a) 20.60.010.001-Administrator Training and Evaluation Program..... 5,592,000

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(aa) 20.60.050.001-Mentor Teaching Program	69,843,000
(ax) 20.60.050.002-Beginning Teacher Support and Assessment Study	3,300,000
(b) 20.60.050.004-School Development Plans, Resource Consortia and Subject Matter Projects	22,262,000
(c) 20.60.070-Bilingual Teacher Training Program	981,000
(d) 20.60.110-Reader Service for Blind Teachers (for transfer to Reader Employment Fund)	252,000
(e) 20.60.120-Regional Staff Development Programs	1,568,000
(f) 20.60.125-Geography Education Alliances	108,000
(g) 20.60.140-Teacher Improvement (Intersegmental Programs)	1,274,000
(h) 20.60.050.010-1990–91 Deficiency Authorization for Mentor Teaching Program	1,611,000

Provisions:

1. With the exception of categories (d) 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, the amount appropriated in category (b) of this item shall be the maximum amount allocated for the 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) of Chapter 5 of

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Part 65 of the Education Code.

4. 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.
6. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (g) 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.
7. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (aa) of this item shall be the maximum amount allocated for the purposes of the California Mentor Teacher Program, Article 4 (commencing with Section 44490) of Chapter 3 of Part 25 of the Education Code.
8. Notwithstanding any other provision of law, each school district which participates in the 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" includes the personnel costs of program administration and coordination, the costs of mentor teacher selection, and indirect costs associated with the mentor teacher program.
9. Pursuant to Chapter 1355 of the Statutes of 1988, the amount appropriated by category (ax) 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 alter-

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native 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.

10. As a condition of receiving funds appropriated in category (b) of this item, regional resource agencies (including regional resource consortia) shall actively consult with all schools receiving category (b) funds, and shall encourage schools and school districts to adopt plans which meet the following three criteria:
    (a) The school or district has focused the plan upon improving subject matter knowledge or related instructional practices, as evidenced by the use of University of California subject matter project services, or by centering the majority of training activities on subject matter, or by clearly determining that the planned training activities will result in strengthening the success of pupils in the curriculum.
    (b) The school or district makes available followup activities, such as observation of demonstration lessons, practice opportunities for peer coaching, consultation and feedback in the classroom setting, or systematic observation during visits to other classrooms of schools, as required by subdivisions (c) and (g) of Section 44670.5 of the Education Code.
    (c) The school or district describes how, and provides evidence that, it has considered how best to link educational credits earned by teachers in order to fulfill continuing education requirements (or to advance on the salary scale) to its staff development goals.

    The resource agency may provide participating schools and districts with written comments on their plans, as it deems appropriate.
11. Of the amount appropriated in category (b) of this item for the regional resource agencies and consortia, $60,000 shall be used for an evaluation of the quality of services provided by these

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agencies and consortia. This evaluation shall include data from a representative sample of schools that receive category (b) funds, and shall examine how well these agencies provide staff development on the variety of topics included in school development plans, assist schools with the creation of these plans, support schools in the use of technology for staff development, and otherwise carry out the activities specified in Section 44680.2(1) of the Education Code. The evaluation shall also seek to determine the reasons why schools choose to use or not use the services of the resource agencies, and shall, in addition, collect data on the utilization and quality of services provided by the subject matter projects.

The funds for the evaluation shall be allocated to a county office of education to be designated by the California Department of Education (CDE), which shall in turn contract with an independent research organization. The contract shall be administered in cooperation with the Program Evaluation and Research Division of CDE, and in consultation with representatives of the education policy and fiscal committees of the Legislature, the Legislative Analyst, and the Department of Finance. The contractor shall report findings to the Joint Legislative Budget Committee and Department of Finance no later than August 1, 1992.

12. Notwithstanding any other provision of law, unless funding is provided for the Mentor Teacher Program in 1991–92, local educational agencies may use any unexpended balance of their 1990–91 allocation for mentor teachers. Unallocated balances may be used to pay the teacher stipend and additional cost allowance for any teacher appointed as a mentor teacher for the 1991–92 school year, even if that teacher has already received a stipend from the 1990–91 allocation.
13. Notwithstanding Section 41206 of the Education Code or any other provision of law, the amount appropriated in category (h) of this item is for payment of 1990–91 deficiency expenditures for the Mentor Teacher Program

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	and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.		
6110-196-001—For local assistance, Department of Education, Program 30.10—Child Development			420,277,000
Schedule:			
(a)	30.10.010.000-Special Prog, Child Dev, Preschool Ed (Proposition 98)	74,248,000	
(b)	30.10.010.001-Special Prog, Child Dev, Preschool Ed (Non P98)	12,340,000	
(c)	30.10.020-Child Care Services (Proposition 98)	195,353,000	
	(1) 30.10.020.001-Special Prog, Child Dev, General Child Development Programs....	158,565,000	
	(2) 30.10.020.002-Special Prog, Child Dev, Campus Children Centers.	4,448,000	
	(3) 30.10.020.003-Special Prog, Child Dev, Highschool Age Parenting & Infant Dev	8,037,000	
	(4) 30.10.020.004-Special Prog, Child Dev, Migrant Day Care.....	2,625,000	
	(5) 30.10.020.007-Special Prog, Child Dev, Alter Pmt Prog.....	4,458,000	
	(6) 30.10.020.008-Special Prog, Child Dev, Resource & Ref.....	1,916,000	
	(7) 30.10.020.009-Special Prog, Child Dev, Campus Child Care Tax Bailout.....	4,853,000	

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(8)	30.10.020.010-Special Prog, Child Dev, Protective Svcs	199,000
(9)	30.10.020.015-Special Prog, Child Dev, Extended Day Care	10,057,000
(10)	30.10.020.018-Special Prog, Child Dev, Exceptional Needs	195,000
(d)	30.10.020-Child Care Service (Non P98)	138,336,000
(1)	30.10.020.091-Special Prog, Child Dev, General Child Development Programs (Non P98)	78,953,000
(2)	30.10.020.092-Special Prog, Child Dev, Campus Children Centers (Non P98)	2,831,000
(3)	30.10.020.094-Special Prog, Child Dev, Migrant Day Care (Non P98) ...	5,593,000
(4)	30.10.020.095-Special Prog, Child Dev, Rent Allowances (Non P98) ..	487,000
(5)	30.10.020.096-Special Prog, Child Dev, Handicapped (Non P98)	818,000
(6)	30.10.020.097-Special Prog, Child Dev, Alter Pmt Prog (Non P98) ...	32,412,000
(7)	30.10.020.098-Special Prog, Child Dev, Resource & Ref (Non P98)	7,506,000

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(8)	30.10.020.100-Special Prog, Child Dev, Protective Svcs (Non P98)....	993,000
(9)	30.10.020.105-Special Prog, Child Dev, Extended Day Care (Non P98).....	8,209,000
(10)	30.10.020.106-Special Prog, Child Dev, California Child Care Initiative (Non P98)	250,000
(11)	30.10.020.108-Special Prog, Child Dev, Exceptional Needs (Non P98).	284,000

Provisions:

1. 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 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 1991–92 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.
2. 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 de-

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velopment 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.

3. 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.
4. The following reimbursement factors shall take effect as of July 1, 1991, but shall not apply to the School Age Community Child Care Program:

(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) 6½to 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 (SDE), 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.

5. 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, 1992,

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shall revert to the General Fund. Further, SDE shall report to the Joint Legislative Budget Committee and the Department of Finance by March 31, 1992, the amount of child development funds, by program, which have been determined after audit to be unearned. SDE shall report on September 30, 1991, and on March 31, 1992, the settlement of claims payable from unearned contract funds balances by program. Further, SDE shall report on September 30, 1991, and on March 31, 1992, 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.

6. 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.
7. 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 an 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 SDE shall enter into a memorandum of understanding that specifies a level of service requirement by SDE programs for AFDC recipi-

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ents. 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 1991–92 fiscal year, the sampling will be made by SDE on September 15 and March 15. To establish an ongoing 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.

8. The SDE shall, to the extent possible, grant waivers of the schoolage 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 schoolage community child care requirements. Nothing in this provision shall be construed to apply to schoolage community child care agencies that do not apply for waivers in good faith.
9. 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 1991–92 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.

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10. 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 classroom in accordance with existing agreements among officials of that school and child care council.
11. Notwithstanding any other provision of law, the SDE, Child Development Division, may authorize a maximum reimbursement rate not to exceed the regional GAIN rate for child care for Alternative Payment 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 SDE pursuant to Section 8265.1 of the Education Code.
12. Notwithstanding any other provision of law, the SDE 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.
13. 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.
14. 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 Pub-

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lic Instruction in excess of 75 percent of the average daily enrollment funding standards for campus child care programs. Campus child care programs operated by the University of California, California State University, and 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.

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 1991–92 fiscal year only. On July 1, 1992, 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 Superinten-

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dent 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, 1992, as shown by satisfactory progress on an educational plan prepared by the candidate.

17. Notwithstanding Section 8278 of the Education Code, the State Department of Education shall allocate the first $524,742 in funds in excess of those required to make payments on accounts payable pursuant to subdivision (a) of Section 8278 of the Education Code in the following priority order:
    (a) $92,000 for the Los Angeles County Respite Care Pilot Program (Chapter 1394, Statutes of 1990)
    (b) $124,000 to provide staff development on the delivery of child care services to children with exceptional needs (Chapter 1596, Statutes of 1990)
    (c) $89,500 to fund the Southern California Youth and Family Center
    (d) $219,242 to fund the Children's Council of San Francisco
18. 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 staff development.
    (c) Not less than 20 percent for one-time-only special projects which will directly benefit children, including data collection and research.
19. Of the amount appropriated in this item, $19,345,000 is for the purpose of enrollment

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growth and, therefore, shall be allocated to services to additional full-time equivalent children. Funds for enrollment growth shall not be used for a cost-of-living adjustment for existing contracted services.		
6110-196-890—For local assistance, Department of Education, Program 30.10—Child Development, payable from the Federal Trust Fund		81,777,000
Schedule:		
(a) 30.10—Special Program—Child Development	3,477,000	
(b) 30.10—Special Program—Child Care Block Grant	78,300,000	
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.		
2. The funds appropriated in Schedule (b) constitute the federal Child Care and Development Block Grant and are contingent upon receipt of the federal fund grant.		
6110-200-001—For local assistance, Department of Education (Proposition 98), Healthy Start Support Services for Children Act		20,000,000
Provisions:		
1. This appropriation is contingent upon enactment of Senate Bill 620 of the 1991–92 Regular Session which would establish the Healthy Start Support Services for Children Act.		
6110-201-001—For local assistance, Department of Education (Proposition 98), Program 30.20—Child Nutrition		56,349,000
Schedule:		
(a) 30.20.010—Child Nutrition	53,478,000	
(b) 30.20.020—Pregnant/Lactating Minors	157,000	
(c) 30.20.010.001—1990–91 deficiency authorization for child nutrition	2,714,000	
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,		

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1992, 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 other provisions of law funds appropriated by this item shall be available for allocation in accordance with Section 49559 of the Education Code, except that for each pregnant or lactating student, the total reimbursement per day shall not exceed one full supplement. These amounts shall be increased as appropriate to reflect any cost-of-living increases which may be provided.
4. Notwithstanding Section 41206 of the Education Code or any other provision of law, the amount appropriated in schedule (c) is for payment of 1990–91 deficiency expenditures for the Child Nutrition Program and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.

6110-201-890—For local assistance, Department of Education, Program 30.20—Child Nutrition, payable from the Federal Trust Fund 610,862,000

6110-202-001—For local assistance, Department of Education..... 8,542,000

Schedule:

(a)	30.20.010-Child Nutrition.....	8,412,000
(b)	Trigger reduction.....	−283,000
(c)	30.20.020-Pregnant/Lactating Minors.....	4,000
(d)	30.20.010.001-1990–91 deficiency authorization for Child Nutrition	409,000

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, 1992, to be eligible for reimbursement.

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2. Notwithstanding any other provisions of law, except as provided in this provision, funds appropriated by this item shall be available for allocation in accordance with provisions of Section 49536 of the Education Code, except that 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 Section 41206 of the Education Code, or any other provision of law, the amount appropriated in schedule (d) of this item is for payment of 1990–91 deficiency expenditures for the Child Nutrition Program and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.

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) 93,324,429

Schedule:

(a) 10.10.950.001—School Apportionments (year-round school implementation grant program) 5,000,000
(b) 10.10.950.002—School Apportionments (year-round school operation grants) 77,937,000
(c) 10.10.950.005—1990–91 deficiency authorization for School Apportionments: Year-Round Schools ... 10,387,429

Provisions:

1. The funds appropriated in Schedule (a) of this item shall be allocated as year-round school implementation grants pursuant to Section 42262 of the Education Code.
2. Applications for year-round school grants pursuant to Section 42262 and 42263 of the Education Code must annually be received by the Superintendent of Public Instruction by no later than August 1 of the year for which payment is sought; applications received after that date

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shall not be processed. In the event that the funds available for a fiscal year are insufficient to fully pay all grants pursuant to Sections 42262 and 44263, the Superintendent of Public Instruction shall at that time provide all approved claims with a prorated share of the funds made available through the Budget Act.

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 year-round school grants pursuant to Sections 42262 and 42263 of the Education Code for the 1991–92 fiscal year but only to the extent that the district incurs costs in 1991–92 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 1991–92 fiscal year. Funds may be distributed during the 1991–92 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. The reduction of the maximum allowable building area for each applicant school district pursuant to Section 17746.8 of the Education Code shall be a permanent reduction to the district's eligibility for funding under Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code. To the extent feasible, the reduction shall be applied to district projects that represent the same grade levels of the pupils for which the district is claiming funding pursuant to Section 42263 of the Education Code.
5. Excess capacity, pursuant to Section 42263 of the Education Code, shall reflect only the additional capacity that has been generated as a result of using a multitrack year-round calendar, and shall not reflect increased capacity generated by any other means.

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6. Notwithstanding any other provision of law, the amount appropriated in schedule (c) of this item is for payment of 1990–91 deficiency expenditures for year-round school payments to school districts pursuant to Education Code Sections 42263 and 42250, and shall be applied as an appropriation toward satisfying the 1991–92 Proposition 98 funding guarantee.	
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.	
6110-401—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 agency 6110 (Department of Education) 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.	
6110-495—Reversion, Department of Education. As of June 30, 1991, 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.	
001-General Fund	
(1) Chapter 1169, Statutes of 1981, Staff Development-Bilingual	
(2) Chapter 1246, Statutes of 1987, Demonstration Programs	
6120-011-001—For support of California State Library, Division of Libraries, and California Library Services Board.....	14,817,211

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Schedule:		
(a) 10-State Library Services	13,818,211	
(b) 20-Library Development Services	3,389,000	
(c) 30-Automation Services	913,000	
(d) 40.01 Administration	1,927,000	
(e) 40.02 Distributed Administration.	−1,927,000	
(f) Unallocated trigger reduction	−180,000	
(g) Reimbursements	−1,042,000	
(h) Amount payable from the Federal Trust Fund (Item 6120-011-890)	−2,081,000	
Provisions:		
1. Of the funds appropriated to this item, $3,627,211 shall be used to fund a Legislative Research Service Bureau.		
6120-011-890—For support of California State Library, for payment to Item 6120-011-001, payable from the Federal Trust Fund		2,081,000
6120-211-001—For local assistance, California State Library, Program 20—Library Development Services		13,438,000
Schedule:		
a) 20.10—California Literacy Campaign	3,063,000	
b) 20.20—Families for Literacy Program	600,000	
c) 20.30—Direct Loan and Interlibrary Loan Programs	6,627,000	
d) 20.40—Computerized Data Base pursuant to Education Code Section 18767	487,000	
e) 20.50—California Library Services Act pursuant to Chapter 4 (commencing with Section 18700) of Part 11 of the Education Code	3,201,000	
f) Unallocated trigger reduction	−540,000	
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.		
6120-211-890—For local assistance, California State Library, Program 20—Library Development Services, payable from the Federal Trust Fund		11,339,000

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6120-221-001—For local assistance, California State Library		10,176,000
Schedule:		
(a) 20-Library Development Services-Public Library Foundation Program	10,600,000	
(b) Trigger reduction	−424,000	
Provisions:		
1. Notwithstanding the provisions of Section 18025 of the Education Code, any city, county, district, or city and county which reduces local revenues appropriated for the public library for the 1991–92 fiscal year shall continue to receive state funds appropriated by this item for the 1991–92 fiscal year only, provided that the reduction in the public library appropriation for the 1991–92 fiscal year is no more than 5 percent of the 1990–91 fiscal year appropriation certified by the fiscal officer and returned to the state librarian for compliance with Section 18023 of the Education Code.		
6255-001-001—For state operations, California State Summer School for the Arts		0
Schedule:		
(a) 10-California State Summer School for the Arts	1,231,000	
(b) Reimbursements from private donations and fees	−535,000	
(c) Less allocation from Department of Education, Item 6110-001-001	−694,000	
(d) Trigger reduction	−2,000	
6320-001-001—For support of California State Council on Vocational Education		103,000
Schedule:		
(a) 10-State Council on Vocational Education	330,000	
(b) Trigger reduction	−2,000	
(c) 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
6330-001-890—For support of the California Occupational Information Coordinating Committee, payable from the Federal Trust Fund		273,000

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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.		
6360-001-407—For support of Commission on Teacher Credentialing, payable from the Teacher Credentials Fund		9,998,000
Schedule:		
(a) 10-Standards for Preparation and Licensing of Teachers	9,998,000	
(b) 10.40.010-Departmental Administration	2,096,000	
(c) 10.40.020-Distributed Departmental Administration	−2,096,000	
Provisions:		
1. Pursuant to Chapter 1355, Statutes of 1988, $250,000 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. 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.		
2. Of this amount, $50,000 is for the purpose of conducting a review of teacher preparation programs, as specified in the Supplemental Report of the 1991 Budget Act.		
6360-001-408—For support of Commission on Teacher Credentialing, payable from the Test Development and Administration Account of the Teacher Credentials Fund		3,857,000
Schedule:		
(a) 10-Standards for Preparation and Licensing of Teachers	3,857,000	
6420-001-001—For support of California Postsecondary Education Commission		3,590,000
Schedule:		
(a) 100000-Personal Services	2,896,000	

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(b) 300000-Operating Expenses and Equipment	940,000	
(c) Unallocated trigger reduction	−49,000	
(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)	−15,000	
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		15,000
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		2,056,993,000
Schedule:		
(a) Support	1,971,251,000	
(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	2,960,000	
(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	51,469,000	
(*l*) Previously Deferred Payment	55,629,000	
(m) Unallocated Trigger Reduction	−34,115,000	
(n) Unallocated Reduction	−12,500,000	
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 re-		

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ported under the provisions of Section 28 of this act.

3. The funds appropriated in category (b) are for support of University of California program of clinical health sciences education, research, and public service, conducted in conjunction with the Charles R. Drew Postgraduate Medical School, as provided for in Sections 1, 2, and 3 of Chapter 1140 of the Statutes of 1973.
4. The University of California shall ensure by adequate controls that funds appropriated by Schedule (b) are expended solely for the support of such programs.
5. The funds appropriated by Schedule (c) are for support of a program of basic and clinical health science education and primary health care delivery research in the field of podiatry, University of California, to be conducted in conjunction with the California College of Podiatric Medicine as provided for in Sections 1 and 4, inclusive, of Chapter 1497, Statutes of 1974.
6. Of the amount in Schedule (a), $2,629,957 shall be available for expenditure only for support of the Northern and Southern Occupational Health Centers as established by a contract entered into with the Department of Industrial Relations pursuant to Section 50.8 of the Labor Code.
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

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and related costs.

(2) The university may utilize a portion of the $4,080,000 as support for graduate student education and related professional teaching support.

(3) To the extent possible, expenditures subject to the limits in paragraphs (1) and (2) shall be reimbursed through the joint research projects specified in paragraph (4).

(4) The balance of the appropriation shall be used to fund industry/academic joint research projects for the policy purposes noted above, on a project-by-project basis, with 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

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the aggregate for both the University of California and the California State University or be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

In the event that the systemwide enrollment of the University of California is under the budgeted enrollment by more than 2 percent, such excess shall be unallocated by the Director of Finance. Unallocated funds may be reallocated to preclude layoffs only after the Director of Finance has approved such action and shall not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time 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 1990–91 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. None of these funds may be used to offset unallocated reductions in schedule (m).
12. Notwithstanding Sections 66156, 66158 and 66160 and 66161 of the Education Code, the appropriation in this item is based on an increase in systemwide mandatory fees for resident students of 20 percent over the 1990–91 level. If

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the Board of Regents raises systemwide mandatory fees beyond this budgeted level, a portion of the additional fee revenues shall be used to provide financial aid to UC students who cannot afford this additional fee increase through University aid programs and the Cal Grant programs administered by the Student Aid Commission. For every $1.00 of additional systemwide fees imposed beyond the 20 percent increase provided in this item, the amount of $20,173 shall be transferred by Executive Order of the Department of Finance from this item to Item 7980-101-001 to augment the amount of Cal Grant A and B awards received by UC students.

It is the intent of the Legislature that California State University mandatory systemwide fees increase by 20 percent in 1991–92 or by 10 percent above the current statutory fee policy. It is further the intent of the Legislature that the fee increase in excess of the current statutory policy be considered as a surcharge in 1991–92. In addition, any fee increase approved by the Regents of the University of California and the Board of Directors of the Hastings College of the Law in excess of the 10 percent statutory increase shall also be considered as a surcharge in 1991–92. It is the intent of the Legislature to review the continuation of the surcharge in relation to overall funding for the university in 1992–93 and to adequately fund the university in 1992–93 such that the surcharge not be required.

13. For the 1991–92 fiscal year, Section 68052 of the Education Code is suspended. The appropriation in this item is based on an increase in nonresident tuition of 20 percent over the 1990–91 level.
14. Notwithstanding any other provision of law, upon transfer from the State Controller, $31,800 is allocated to the University of California for the sole purpose of matching a contribution from the California Policy Seminar of $49,800 to develop a data base and methodology for predicting revenue and tax burden effects of changes in the California property tax system.

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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	26,852,000
6440-001-814—For support of University of California, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 General Election, payable from the California State Lottery Education Fund	18,750,000
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.	(55,000,000)
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, 1992. Claims for these funds shall be submitted by the University of California on or after July 1, 1992, and before October 1, 1992.	
2. No reserve may be established by the State Controller for this appropriation before July 1, 1992.	
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	43,941,000
6440-013-001—For support of University of California, for augmentation for employee and annuitant compensation, staff benefits	16,620,000
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 suffi-	

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cient 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 benefits for all employees and annuitants of the University of California for the 1991–92 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.		
6440-301-660—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.		112,045,000
Schedule:		
Berkeley Campus:		
(1) 99.01.085-Doe and Moffitt Libraries Addition and Seismic Improvements—Construction	40,785,000	
Irvine Campus:		
(2) 99.09.080-Engineering Unit 2—Construction	26,991,000	
Los Angeles Campus:		
(3) 99.04.060-Powell Library Seismic Renovation—Construction	31,735,000	
(3.5) 99.04.060.911-Los Angeles: Powell Library Seismic Renovation-North Campus Interim Staging Facility—Acquisition	2,000,000	
San Diego Campus:		
(4) 99.06.080-Visual Arts Facility —Construction	10,534,000	

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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.		
2. The amount appropriated under schedule 3.5 of this item for acquisition of the North Campus Interim Staging Facility shall be available only until June 30, 1992, and only if the University of California purchases the North Campus Interim Staging Facility from the developer/owner of the facility no later than June 30, 1992.		
6440-301-718—For Capital Outlay, University of California, payable from the Health Science Facilities Construction Program Fund		2,237,000
Schedule:		
San Francisco Campus:		
(1) 99.02.050-Parnassus Fire Alarm and Life Safety System—Working drawings and construction	2,111,000	
(2) 99.02.055-Parnassus Fire Protection Water Supply System—Working drawings	126,000	
6440-301-785—For capital outlay, University of California, payable from the 1988 Higher Education Capital Outlay Bond Fund		1,000,000
Schedule:		
Universitywide:		
(1) 99.00.011-Seismic Planning—Preliminary plans	1,000,000	
6440-301-791—For Capital Outlay, University of California, payable from the June 1990 Higher Education Capital Outlay Bond Fund		21,670,000
Schedule:		
Universitywide:		
(1) 99.00.005-Minor Capital Outlay Preliminary plans, working drawings, construction and equipment	4,500,000	
Davis Campus:		
(2) 99.03.090-Social Sciences and Humanities Building—Working drawings	879,000	

Item	Amount
(2.1) 99.03.200-Heat Recovery Incinerator, UCD Medical Center—Construction	582,000
(2.2) 99.03.210-Energy Conservation Improvements, UCD Medical Center—Construction	366,000
Irvine Campus:	
(2.5) 99.09.095-Central Plant Boiler Modifications and standby fuel system—Construction	3,477,000
Los Angeles Campus:	
(3) 99.04.065-Chemistry/Biological Sciences Young Hall Renovation Working drawings	1,150,000
Riverside Campus:	
(4) 99.05.050-Engineering Science Building,Unit 1—Working drawings	1,252,000
(5) 99.05.045-Soils and Plant Nutrition Building Seismic Upgrade and Remodel—Construction	4,828,000
(5.5) 99.05.055-Central Plant Boiler Renewal, Phase 2—Construction	1,466,000
San Diego Campus:	
(6) 99.06.085-Engineering Building Unit 2—Working drawings	1,220,000
San Francisco Campus:	
(7) 99.02.065-Health Science Instruction and Research Electrical System—Preliminary plans and working drawings	627,000
Santa Cruz Campus:	
(8) 99.07.050-Colleges Nine and Ten Academic Facilities—Working drawings	607,000
(9) 99.07.055-Science Library Released Space Alterations—Equipment	117,000
(10) 99.07.060-Music Facility—Working drawings	599,000

Provisions:

1. The funds appropriated in this item for Energy Conservation Improvements and the Heat Recovery Incinerator at the UC Davis Medical Center shall be available for the purposes approved and any commitments made under the original appropriation.

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6440-490—Reappropriation, University of California. Notwithstanding any other provision of law, the balance, as of June 30, 1991, 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, 1992:

001—General Fund

(1) Item 6440-001-001, Budget Act of 1990

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, 1991, of Item 6440-001-001 of the Budget Act of 1990, by September 30, 1991, and the expenditures made pursuant to this item by September 30, 1992.
2. The University of California shall return to the State Controller, state general funds appropriated in the Budget Act of 1990 in an amount equal to the General Fund portion of federal contract and grant overhead funds in excess of the 1990–91 fiscal year budgeted amount.

6440-491—Reappropriation, University of California. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitation, unless otherwise specified, provided for in the appropriations:

791—June 1990 Higher Education Capital Outlay Bond Fund

San Francisco Campus:

(6) 99.02.040-Library release space improvements—Preliminary plans and working drawings

6600-001-001—For support of Hastings College of the Law 13,513,000

(a) Support 12,956,000

(ax) Student Services 774,000

(b) Trigger reduction ..... −217,000

Provisions:

1. The appropriations from these funds are exempt from Section 31.00 of this act.
2. Notwithstanding Sections 66156, 66158 and 66161 of the Education Code, the appropriation

Item Amount

in this item is based on an increase in systemwide mandatory fees for resident students of 20 percent over the 1990–91 level. If the Board of Directors raises systemwide mandatory fees beyond this budgeted level, a portion of the additional fee revenues shall be used to provide financial aid to Hastings students who cannot afford this additional fee increase through Hastings aid programs.

It is the intent of the Legislature that California State University mandatory systemwide fees increase by 20 percent in 1991–92 or by 10 percent above the current statutory fee policy. It is further the intent of the Legislature that the fee increase in excess of the current statutory policy be considered as a surcharge in 1991–92. Likewise, any fee increase approved by the Regents of the University of California and the Board of Directors of the Hastings College of the Law in excess of the 10 percent statutory increase shall also be considered as a surcharge in 1991–92. It is the intent of the Legislature to review the continuation of the surcharge in relation to overall funding for the college in 1992–93 and to adequately fund the college in 1992–93 such that the surcharge not be required.

3. For the 1991–92 fiscal year, Section 68052 of the Education Code is suspended. The appropriation in this item is based on an increase in nonresident tuition of 20 percent over the 1990–91 level.
4. The funds appropriated in Category (ax) are for support of 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. None of these funds may be used to offset unallocated trigger reductions in this item.

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 163,000

Item	Amount

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.

6600-013-001—For support of Hastings College of the Law, for augmentation for employee and annuitant compensation, staff benefits 110,000

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 1991–92 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 annuitant 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, 1991, 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, 1992:

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001—General Fund

(1) Item 6600-001-001, Budget Act of 1990

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, 1991, of Item 6600-001-001 of the Budget Act of 1990, by September 30, 1991, and the expenditures made pursuant to this item by September 30, 1992.

6610-001-001—For support of Trustees of the California State University and the California State University 1,617,688,000

Schedule:

(j) Unallocated trigger reduction.... −27,870,000
(k) Reimbursements..... −63,943,000
(*l*) Amounts payable from the Higher Education Fees and Income Fund (Item 6610-001-498) ..... −419,483,000
(m) Support 2,095,147,000
(n) Student Financial Aid..... 33,837,000

Provisions:

1. The funds appropriated in this item shall be subject to the provisions of Section 13320 of the Government Code and applicable Budget Act restrictions with the following exceptions:
   (a) The trustees may transfer excess salary savings funds from the salary savings reserve allotments to expenditure allotments provided such transfers do not exceed 20 percent of salary savings. Excess salary savings funds are those in excess of the amount budgeted.
   (b) The trustees may approve transfer of funds between one or more of the programs for which funds are appropriated for the support of the California State University.

   Any transfer of funds made under the above exceptions shall be reported to the Department of Finance and Joint Legislative Budget Committee within 30 days after the end of each quarter in which such transfer was approved.
2. The funds appropriated in this item may be reallocated upon order of the Trustees of the California State University subject to being reported to the Department of Finance; provided

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that no instructional faculty positions authorized for the 1991–92 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 Items 6610-021-001, 6610-021-036, 6610-301-525, 6610-301-660, 6610-301-782, 6610-301-785 or 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 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

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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".

"Surplus" is defined as those funds in excess of that returned to the state pursuant to this section. No exceptions to the above prescribed allocation may be made unless prior approval is given by the Department of Finance and is reported to the Chairperson of the Joint Legislative Budget Committee, and the financial necessity of any such exception shall be identified.

6. Of the funds appropriated in this item, $33,837,000 is to provide financial aid to California State University students, and shall be used to provide financial aid to needy students according to the nationally accepted needs analysis methodology. None of these funds may be

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used to offset unallocated reductions in this item.

7. Of the amount appropriated in this item, $336,000 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 this item, $2,566,000 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 this item 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. Of the amount appropriated in this item, $350,000 is for transfer to the Affordable Student Housing Revolving Fund, 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.
11. Notwithstanding Sections 66156, 66158 and 66160 and 66161 of the Education Code, the trustees are authorized to raise fees not to exceed 20 percent. If the Board of Trustees raises systemwide mandatory fees beyond this budgeted level, a portion of the additional fee revenues shall be used to provide financial aid to CSU students who cannot afford this additional fee increase through the State University Grant program and the Cal Grant programs administered by the Student Aid Commission. For every $1.00 of additional systemwide fees imposed beyond the 20 percent increase pro-

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vided in this item, the amount of $21,503 shall be transferred by Executive Order of the Department of Finance from this item to Item 7980-101-001 to augment the amount of Cal Grant A and B awards received by CSU students.

It is the intent of the Legislature that California State University mandatory systemwide fees increase by 20 percent in 1991–92 or by 10 percent above the current statutory fee policy. It is further the intent of the Legislature that the fee increase in excess of the current statutory policy be considered as a surcharge in 1991–92. Likewise, any fee increase approved by the Regents of the University of California and the Board of Directors of the Hastings College of the Law in excess of the 10 percent statutory increase shall also be considered as a surcharge in 1991–92. It is the intent of the Legislature to review the continuation of the surcharge in relation to overall funding for the university in 1992–93 and to adequately fund the university in 1992–93 such that the surcharge not be required.

12. For the 1991–92 fiscal year, Section 68052 of the Education Code is suspended. The appropriation in this item is based on an increase in nonresident tuition of 20 percent over the 1990–91 level.
13. Of the funds appropriated in this item, $9,063,376 is for the Disabled Student Services program. In addition, it is the intent of the Legislature that these funds shall only be expended for the sole purpose of providing Disabled Student Services. Furthermore, no unallocated reductions shall be taken out of this program.

6610-001-498—For support of Trustees of the California State University and the California State University, for payment to Item 6610-001-001, payable from the Higher Education Fees and Income, CSU Fund 419,483,000

Provisions:

1. All funds received in the Higher Education Fees and Income, CSU Fund, which are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.

Item		Amount
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		(33,438,000)
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.		
6610-001-890—For support of Trustees of the California State University and the California State University, payable from the Federal Trust Fund		108,271,000
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		1,474,238
Schedule:		
(a) Center for California Studies —Fellows Program	168,000	
(b) Center for California Studies —Other	25,000	
(c) Assembly Fellows	498,119	
(d) Senate Fellows	498,119	
(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		

Item	Amount
California State University to make the required lease-purchase payment	11,742,000
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, payable from the General Fund	3,218,000
Provisions:	
1. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated in this item shall be available for expenditure until June 30, 1993.	
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	2,000,000
Provisions:	
1. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated in this item shall be available for expenditure until June 30, 1993.	
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	19,296,000
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 1991–92 fiscal year. Funds appropriated for employee and annuitant 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	

Item		Amount
not bargaining for a 1991–92 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.		
6610-301-525—For Capital Outlay, State Public Works Board, payable from the High Technology Education Revenue Bond Fund from proceeds from the sale of bonds, negotiable notes or negotiable bond anticipation notes for the construction of California State University facilities pursuant to Government Code Section 15820, et seq.		4,259,000
Schedule:		
California State University, Chico:		
(1) 06.52.054-O'Connell Technology Center, Equipment	4,259,000	
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.		
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 facilities pursuant to Government Code Section 15820.50 et seq.		105,970,000
Schedule:		
California State University, Bakersfield:		
(1) 06.50.054-Walter W. Stiern Library—Construction	18,615,000	
California State University, Chico:		
(2) 06.52.089-Renovate Ayres Hall —Construction	2,446,000	
California State University, Fresno:		
(3) 06.56.070-Education Building —Construction	17,477,000	

Item		Amount
California State University, Fullerton:		
(4) 06.62.073-Classroom/Student and Academic Support/Faculty Office Building—Construction	12,903,000	
California State University, Hayward:		
(5) 06.64.072-Art and Education Building Renovation—Construction	2,560,000	
California State University, Long Beach:		
(6) 06.71.094-Physical Education Building Addition—Construction.	9,370,000	
California State University, San Bernardino:		
(7) 06.78.060-Library Addition/Site Development—Construction	17,842,000	
California State University, San Francisco:		
(8) 06.84.063-Classroom/Faculty Office Building—Construction	24,757,000	
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.		
6610-301-785—For Capital Outlay, Trustees of the California State University and the California State University, payable from the 1988 Higher Education Capital Outlay Bond Fund		2,369,000
Schedule:		
California State University, San Diego, Imperial Valley Campus:		
(1) 06.80.120-Imperial Valley Campus Improvements—Preliminary plans	153,000	
California State University, San Marcos:		
(2) 06.68.052-Library Book Acquisition, part II—Equipment	2,216,000	
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		29,953,000

Item	Amount
Schedule:	
Systemwide—Trustees of the California State University:	
(0.3) 06.48.315-Statewide: Minor Capital Outlay—Preliminary plans, working drawings, construction, and equipment	4,000,000
(0.6) 06.48.335-Statewide: Seismic Safety Action Plan—Preliminary plans	500,000
(0.9) 06.48.366-Statewide: Seismic Bracing for Library Stacks—Preliminary plans	20,000
(1) 06.48.337 Boiler Retrofits—Preliminary plans, working drawings, construction and equipment	5,073,000
California State University, Chico:	
(1.1) 06.52.095-Correct Fire Code Violations—Preliminary plans	65,000
(1.2) 06.52.096-Trinity Hall Elevator—Preliminary plans	11,000
California State University, Fresno:	
(1.5) 06.56.081-Domestic Water Supply system—Preliminary	55,000
California State University, Long Beach:	
(1.7) 06.71.093.901-Renovate/Upgrade HV Electrical System Infrastructure—Construction	7,100,000
California State University, Los Angeles:	
(1.8) 06.73.080-Remodel Fine Arts Building—Construction	1,768,000
(1.9) 06.73.081-Modernize Biological Science Research Labs—Preliminary plans, working drawings, and construction	1,052,000
California State University, San Diego:	
(2) 06.80.110—Classroom/Student Services Building, Phase II—Equipment	2,300,000
(2.1) 06.80.119-Remove/Upgrade Electrical Infrastructure—Preliminary plans and working drawings	520,000
California State University, Northridge:	
(3) 06.82.070—Renovation and Upgrade Electrical Infrastructure Phase I Construction	6,398,000

Item		Amount
(3.1)	06.82.069.000-Engineering Add, Asbestos Abatement, Renovation, Phase I—Working drawings	323,000
California State University, Sacramento:		
(4)	06.76.087-Science Fume Hood Modifications—Preliminary plans.	33,000
California State University, San Bernardino:		
(5)	06.78.070.901-Health/PE Classroom and Faculty Office Complex—Working drawings	485,000
California State University, San Francisco:		
(6)	06.84.088-Correct Life Safety Deficiencies—Preliminary plans	64,000
California State University, San Jose:		
(7)	06.86.083-Alquist Renovation (Life/Safety)—Preliminary plans.	25,000
California Polytechnic State University, San Luis Obispo:		
(8)	06.96.087-Dairy Science I, Instructional Center—Equipment	161,000

Provisions:

1. With respect to Schedule (1.8) of this item, when the Controller calculates the amount expended under Item 6610-301-782 of the 1986 Budget Act, as reappropriated by Item 6610-491 of the 1989 Budget Act, for the remodel of the Fine Arts Building at California State University, Los Angeles, for purposes of reverting the unliquidated balance of that appropriation, as required under Item 6610-491 of this act, the Controller also shall revert to the unappropriated balance of the June 1990 Higher Education Capital Outlay Bond Fund an amount equal to that expenditure from the funds appropriated in this item for the same project. The Controller shall report the amount so reverted to the Department of Finance and the Joint Legislative Budget Committee.
2. With respect to schedule (0.6), Seismic Safety Action Plan, no funds are to be expended for preliminary plans for this project until a seismic survey has been completed by the California State University system on all of its impacted buildings and prioritized in accordance with the guidelines of the Office of the State Architect.

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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, 1993:

001—General Fund

(1) Item 6610-001-001, Budget Act of 1990:

Provisions:

1. The reappropriated funds shall be available for unallocated reductions, replacement of instructional equipment, deferred maintenance and special repair projects, and the California Academic Partnership Program (CAPP).
2. 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, 1991, of Item 6610-001-001 of the Budget Act of 1990, by September 30, 1991, and the expenditures made pursuant to this item by September 30, 1992, and September 30, 1993.

036—Special Account For Capital Outlay

(1) Item 6610-021-036, Budget Act of 1989

785—1988 Higher Education Capital Outlay Bond Fund

(1) Item 6610-001-785, Budget Act of 1988

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.

785—Higher Education Capital Outlay Bond Fund of 1988

Item 6610-301-785, Budget Act of 1988, as reappropriated by Item 6610-491, Budget Act of 1989, as reappropriated by Item 6610-491, Budget Act of 1990:

(29) 06.82.061-Northridge, Ventura Site Master Plan

Item	Amount
791—June 1990 Higher Education Capital Outlay Bond Fund	
Item 6610-301-791, Budget Act of 1990:	
(1) 06.48.313-Statewide: Preliminary planning for selected 1991–92 and 1992–93 projects	
(2) 06.48.314-Statewide: Architectural Services	
(3) 06.48.315-Statewide: Minor Capital Outlay —Preliminary plans, working drawings, construction, and equipment	
(6) 06.48.333-Systemwide: Campus utilities infrastructure master planning	
California State University, Fullerton:	
(19) 06.62.075-Central Plant, Phase V—Preliminary plans and working drawings	
California State University, Long Beach:	
(23) 06.71.082-Library Addition and Remodel —Construction	
California State University, Sacramento:	
(38) 06.76.084-Correct Fire Marshal Deficiencies —Preliminary plans, working drawings, and construction	
San Jose State University:	
(55) 06.86.095-Central Fire Alarm and Emergency System—Preliminary plans, working drawings, and construction	
Provisions:	
1. The California State University shall make every effort to secure funding of working drawings and construction for Phase V of the Central Plant Expansion project at the Fullerton campus through the Energy Efficiency Revenue Bond Program administered by the Department of General Services, Office of Energy Assessments. None of the funds reappropriated in this item for the working drawing phase for the Phase V Central Plant Expansion shall be encumbered unless and until the Office of Energy Assessments determines that the working drawing phase of the project cannot be funded with energy efficiency revenue bonds. The California State University shall report the basis for the final determination on the use of the reappropriated funds to the Chairs of the Joint Legislative Budget Committee and the fiscal committees of each house.	

Item		Amount
6610-496—Reversion, California State University. As of June 30, 1991, the unliquidated balance of the appropriation provided in the following citation shall revert to the fund balance of the fund from which the appropriations were made.		
782—Higher Education Capital Outlay Bond Fund:		
(1) Item 6610-301-782, Budget Act of 1986:		
(14) 06.73.080 Los Angeles, Construct and Remodel Fine Arts Building		
6860-001-001—For support of California Maritime Academy		7,075,000
Schedule:		
(a) 10-Instruction	5,405,000	
(b) 20-Academic Support	1,448,000	
(c) 30-Student Services	3,325,000	
(d) 40.01-Administration	2,431,000	
(e) 40.02-Distributed Administration	−2,431,000	
(f) Unallocated trigger reduction	−85,000	
(g) Reimbursements	−2,587,000	
(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.		
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		(45,000)
Provisions:		
1. All funds received pursuant to Proposition 37 that are allocable to the California Maritime Academy pursuant to Section 8880.5 of the Gov-		

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ernment 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 1991–92 for the purchase of fuel oil.

6860-490—Reappropriation, California Maritime Academy. Notwithstanding any other provision of law, the balance, as of June 30, 1991, 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, 1992:

001—General Fund

(1) Item 6860-001-001, Budget Act of 1990

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, 1991, of Item 6860-001-001 of the Budget Act of 1990, by September 30, 1991, and the expenditures made pursuant to this item by September 30, 1992.

6870-001-001—For support of Board of Governors of the California Community Colleges 14,575,000

Schedule:

(a) 10-Apportionments	2,056,000
(b) 20-Special Services and Operations	17,486,000
(c) 30.01-Administration	4,275,000
(d) 30.02-Administration—Distributed	−4,275,000
(e) Unallocated trigger reduction.....	−137,000
(f) Reimbursements.....	−4,830,000

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 In-

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structional 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 1991–92 by "Recording for the Blind" shall be $150,000 higher than the level of services provided to such students by the agency in 1988–89.		
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		142,000
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		105,000
Provisions:		
1. Notwithstanding subdivision (c) of Section 903.7 of the Welfare and Institutions Code, federal Title IV(e) funds received as reimbursement for the Foster Parent Training Program shall be deposited into the Foster Children and Parent Training Fund.		
6870-101-001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98)		1,677,306,000
Schedule:		
(a) 10-Apportionments	1,518,634,000	
(b) 20.10.010-Extended Opportunity Programs and Services and Special Services	53,289,000	
(c) 20.10.020-Disabled Students	34,051,000	

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(d)	20.10.070-Matriculation	39,212,000
(e)	20.20.020-Academic Senate for the Community Colleges	379,000
(f)	20.20.040-Faculty and Staff Diversity	1,859,000
(g)	20.30.010-Faculty and Staff Development	4,900,000
(h)	20.30.020-Instructional Improvement, for Transfer to the Community College Fund for Instructional Improvement	736,000
(i)	20.30.050-Economic Development	5,256,000
(j)	20.30.070-Transfer Education and Articulation	1,039,000
(k)	20.30.090-Underrepresented Students/Vocational Education In-Service Training	1,270,000
(*l*)	20.40.020-Deferred Maintenance	8,681,000
(m)	20.40.040-Hazardous Substances	8,000,000

Provisions:

1. The funds appropriated in Schedule (a) are for transfer by the State Controller during the 1991–92 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 1991–92 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. Notwithstanding Section 84750 of the Education Code, $65,214,000 shall be for allocation to community college districts for growth in full-time equivalent students (FTES).

   Notwithstanding any other provision of law, for the 1991–92 fiscal year, funding provided in Schedule (a) for general apportionment growth shall be distributed pursuant to the program-based funding regulations adopted by the Board of Governors to the extent that the statewide growth generated above the 1990–91 general apportionment funded levels equals or exceeds the workload growth that would have been funded under the prior funding mecha-

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nisms. The base workload for 1992–93 shall be the 1991–92 workload under program-based funding.	
"1.1. Of the amount included in Schedule (a) for base FTES growth, $5,000,000 shall be available for allocation by the Chancellor to fund additional FTES in new community college educational facilities. The additional FTES funded by this provision shall be a permanent augmentation to the base FTES for the affected districts in subsequent years."	
1.2. Of the amount included in Schedule (a) for base FTES growth, $2,800,000 will be allocated to the Los Angeles and Peralta Community College Districts for restoration of declines in FTES since 1982–83 pursuant to a plan approved by the Chancellor of the California Community Colleges. The additional FTES funded by this provision shall be a permanent augmentation to the base FTES for these districts in subsequent years.	
2. Notwithstanding any other provision of law, $14,000,000 of the funds appropriated in Schedule (a) shall be for allocation to community college districts in the 1991–92 fiscal year for the purposes of funding FTES growth in courses in basic skills, including English-as-a-second-language courses, to the extent the FTES growth exceeds the rate of growth of the district's adult population . The Chancellor of the California Community Colleges shall develop criteria for allocating these funds.	
3. (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.	

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(b) The chancellor shall report to the Department of Finance and the Legislature no later than October 1, 1991, on the amount of funds expended for and the hours of related and supplemental instruction offered in the apprenticeship program during the 1990–91 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 1991–92 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 information 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.

4. 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 1992–93 apportionments. The additional FTES generated above each district's funded FTES shall not be added to the subsequent year's FTES base, and the additional revenues and FTES shall not be included in calculations for determining the average revenues per FTES.

5. (a) The funds appropriated in Schedule (b) are for transfer by the State Controller during the 1991–92 fiscal year to Section B of the

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	State School Fund and are exclusively for allocation to local assistance programs notwithstanding Section 69648.5 of the Education Code.	
	(b) Of the amount in Schedule (b), $33,299,000 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; $18,119,000 is for the Board Financial Aid Program; $1,647,000 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 1990–91 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.	
6.	(a) The funds appropriated in Schedule (c) are for transfer by the State Controller during the 1991–92 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 1991–92 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. At least 15 days prior to allocation of	

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	funds, the chancellor shall submit an expenditure plan to the Department of Finance. (b) Of the amount appropriated in Schedule (c), $695,000 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. (e) Notwithstanding any other provision of law, of the funds appropriated in Schedule (c), $3,656,000 shall be for state hospital adult education programs at the six hospitals served by the community colleges in 1986–87. The amount provided includes the level of funding provided for the state hospital program in 1986–87, plus subsequent cost of living adjustments. If adult education services at any of the six hospitals are not supported by the community colleges in 1991–92, the associated funds shall, upon order of the Department of Finance, after 30 days' notice to the Chairperson of the Joint Legislative Budget Committee, be transferred to the Department of Developmental Services (DDS). For any transfer of funds to DDS during 1991–92, the Proposition 98 base funding levels for community colleges and DDS will be adjusted accordingly. 7. The funds appropriated in Schedule (d) 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 1991–92 fiscal year to Section B of the State School Fund.	

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8. The amounts in Schedules (f), (g), and (i) are for transfer by the State Controller during the 1991–92 fiscal year to Section B of the State School Fund.
9. The funds appropriated in Schedule (h) shall be expended only for grants and are in lieu of any amount which otherwise would be appropriated or reallocated pursuant to Section 84384 of the Education Code.
10. Of the amount in Schedule (i), 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.
12. Of the amount in Schedule (k), $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 (k) shall be used for funding of grants to improve the retention and educational success of students from the underrepresented groups (Underrepresented Student Special Projects).
13. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated in Schedule (*l*) shall be available for expenditure until June 30, 1993.
14. Pursuant to Section 84661 of the Education Code, which requires districts to match state funds provided for deferred maintenance, Schedule (*l*), 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, 1992, on any waivers granted.
15. Of the amount appropriated in Schedule (m), $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.

Item	Amount
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.....	95,230,000
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 pursuant to Section 903.7 of the Welfare and Institutions Code....	900,000
Provisions:	
1. Notwithstanding subdivision (c) of Section 903.7 of the Welfare and Institutions Code and pursuant to an interagency agreement with the State Department of Social Services, federal Title IV(e) funds received as reimbursement for the Foster Parent Training Program shall be deposited into the Foster Children and Parent Training Fund and shall be added to the appropriation for this item and be made available for the Foster Parent Training Program in the California Community Colleges.	
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 Fi-	

Item		Amount
nance no sooner than necessary to allow selected community colleges to make the required lease-purchase payments		6,212,000
6870-111-001—For local assistance, Board of Governors of the California Community Colleges		0
Schedule:		
(a) 10-Apportionments	4,600,000	
(b) 20.30.030-Vocational Education Special Projects	4,064,000	
(c) 20.30.031-Vocational Education Allocations	31,110,000	
(d) Reimbursements	−39,774,000	
Provisions:		
1. The amounts appropriated in Schedules (b) and (c) shall be available for expenditure until June 30, 1993.		
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.		110,603,000
Schedule:		
Cerritos Community College District		
Cerritos College		
(1) 40.07.104—Learning resource center remodel/expansion-Construction	4,747,000	
Chaffey Community College District		
Chaffey College		
(2) 40.08.101—Learning resource center remodel and expand-Construction	1,681,000	
(3) 40.08.102—Architectural barrier removal—Preliminary plans, working drawings, and construction	1,051,000	
Citrus Community College District		
Citrus College		
(4) 40.09.108—Physical science remodel—Preliminary plans, working drawings, construction, and equipment	1,231,000	

Item	Amount
Coast Community College District	
Orange Coast College	
(5) 40.11.305—Vocational Technology Building-Construction	11,209,000
Contra Costa Community College District	
Contra Costa College	
(6) 40.13.101—Architectural barrier removal—Preliminary plans, working drawings, and construction	1,108,000
Diablo Valley College	
(7) 40.13.212—Architectural barrier removal—Preliminary plans, working drawings, and construction	1,614,000
Desert Community College District	
College of The Desert	
(8) 40.10.104—Campus Fire System—Preliminary plans, working drawings, and construction	674,000
(9) 40.10.105—Architectural barrier removal—Preliminary plans, working drawings, and construction	1,016,000
Copper Mountain Center	
(10) 40.10.203—Library/learning resource center—Equipment and Construction	2,153,000
(11) 40.10.204—Student Service Center—Construction and equipment	1,710,000
Feather River Community College	
Feather River College	
(12) 40.73.101—Science Module—Construction and equipment	1,935,000
Fremont-Newark Community College District	
Ohlone College	
(12.1) 40.15.101.910—Foothill-DeAnza CCD, DeAnza College: Computer/electronics/telecommunications building—Additional construction	685,000
(13) 40.16.103—Performing arts facility—Construction and working drawings	12,093,000

Item	Amount
Gavilan Joint Community College District	
Gavilan College	
(14) 40.17.101—Architectural barrier removal—Preliminary plans, working drawings, and construction	887,000
Grossmont-Cuyamaca Community College District	
Cuyamaca College	
(15) 40.19.106—Outdoor physical education facility—Construction	1,450,000
Kern Community College District	
Bakersfield College	
(17) 40.22.102—Architectural barrier removal—Preliminary plans, working drawings, construction, and equipment	2,561,000
Porterville College	
(18) 40.22.303—Secondary effects instructional building—Preliminary plans, working drawings, construction, and equipment	1,207,000
Lake Tahoe Community College District	
Lake Tahoe Community College	
(19) 40.23.108—Child care/development facility—Preliminary plans, working drawings, construction, and equipment	922,000
Mendocino-Lake Community College District	
Mendocino College	
(20) 40.29.116—Fine arts building —Working drawings and construction	6,457,000
Mt. San Antonio Community College District	
Mt. San Antonio College	
(21) 40.33.107—Student services center—Construction	6,594,000
(22) 40.33.106—Fire system replacement—Construction	1,123,000
Mt. San Jacinto Community College District	
Mt. San Jacinto College	
(23) 40.34.101—Business and technology building—Construction and equipment	4,127,000

Item	Amount
Peralta Community College District	
District Center	
(24) 40.40.602—D.P./warehouse seismic upgrade—Preliminary plans, working drawings, construction, and equipment	1,300,000
Merritt College	
(25) 40.40.405—Conversion of space —Construction and equipment	1,534,000
San Joaquin Community College District	
San Joaquin College	
(26) 40.49.101—Child care/development facility—Construction and equipment	2,796,000
Santa Barbara Community College District	
Santa Barbara City College	
(27) 40.53.114—Campus entry modification—Preliminary plans, working drawings, and construction	871,000
(28) 40.53.113—New business communications center—Construction	5,032,000
Santa Clarita Community College District	
College of the Canyons	
(29) 40.54.101—Remodel for efficiency—Construction	1,918,000
Sequoias Community College District	
Sequoias College	
(30) 40.56.102—Home economics/ classroom building—Construction and equipment	3,394,000
South County Community College District	
Chabot College	
(31) 40.62.103—Architectural barrier removal—Construction	5,521,000
Ventura County Community College District	
Moorpark College	
(32) 40.65.103—Performing arts building—Working drawings and construction	7,136,000
Victor Valley Community College District	
Victor Valley Community College	
(33) 40.66.104—Security/fire access road—Preliminary plans, working drawings, and construction	1,088,000

Item		Amount
Yosemite Community College District		
Modesto Junior College		
(34) 40.70.205—Science building renovation/addition—Construction.	6,387,000	
(35) 40.70.206—Automotive Addition —Construction	2,298,000	
Yuba Community College District		
Woodlands Center		
(36) 40.71.304—Learning resource center—Construction and equipment	3,093,000	
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.		
6870-301-791—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		9,535,000
Schedule:		
Antelope Valley Community College District		
Antelope Valley College		
(1) 40.03.102—Administration building remodel—Equipment	147,000	
(2) 40.03.104—Child care/development facility—Preliminary plans and working drawings	74,000	
Butte Community College District		
Butte College		
(3) 40.05.102—Architectural barrier removal—Preliminary plans, working drawings, and construction	307,000	
(4) 40.05.103—Child care/Development facility—Preliminary plans and working drawings	81,000	

Item	Amount
Cerritos Community College District	
Cerritos College	
(5) 40.07.105—Architectural barrier removal—Preliminary plans, working drawings, and construction	408,000
Citrus Community College District	
Citrus College	
(6) 40.09.107—Electric utilities—Preliminary plans and working drawings	354,000
(7) 40.09.109—Biology Remodel—Preliminary plans and working drawings	187,000
Contra Costa Community College District	
Diablo Valley College	
(8) 40.13.206—Skills center addition—Equipment	714,000
Contra Costa Community College District	
Contra Costa College	
(9) 40.13.102—Hazardous chemical storage—Preliminary plans, working drawings, and construction	126,000
Los Medanos College	
(10) 40.13.309—Architectural barrier removal—Preliminary plans, working drawings, and construction	754,000
Foothill-DeAnza Community College District	
DeAnza College	
(11) 40.15.103—Secondary effects, computer electronics—Preliminary plans and working drawings	86,000
Foothill College	
(12) 40.15.202—Library remodel/addition—Equipment	634,000
Grossmont-Cuyamaca Community College District	
Grossmont College	
(13) 40.19.202—Information systems building—Preliminary plans, working drawings, construction, and equipment	518,000
(14) 40.19.203—Architectural barrier removal Phase II—Preliminary plans, working drawings, and construction	288,000

Item	Amount
Lake Tahoe Community College District	
Lake Tahoe Community college	
(15) 40.23.107—Outdoor safety lighting, sidewalk, and fire access road—Preliminary plans, working drawings, and construction ..	467,000
Marin Community College District	
Marin Community College	
(16) 40.28.204—Student Services, secondary effects—Preliminary plans, working drawings, and construction	761,000
Monterey Peninsula Community College District	
Monterey Community College	
(17) 40.32.101—Handicapped barrier removal—Preliminary plans, working drawings, and construction	434,000
Peralta Community College District	
District Center	
(18) 40.40.601—Conroy/Maintenance seismic upgrade—Preliminary plans, working drawings, construction, and equipment.....	634,000
Rio Hondo Community College District	
Rio Hondo College	
(19) 40.43.102—Child care/development facility—Preliminary plans and working drawings.....	98,000
Saddleback Community College District	
Saddleback College	
(20) 40.45.211—Reclaimed irrigation system—Preliminary plans, working drawings, and construction	568,000
San Bernardino Community College District	
Crafton Hills College	
(21) 40.46.104—Child care/development facility—Preliminary plans and working drawings.....	63,000
San Diego Community College District	
San Diego Miramar College	
(22) 40.47.304—Access road—Preliminary plans, working drawings, and construction	437,000

Item	Amount
Santa Clarita Community College District	
College of the Canyons	
(23) 40.54.102—Child care/development facility—Preliminary plans and working drawings.....	86,000
Santa Monica Community College District	
Santa Monica College	
(24) 40.55.101—Technical building addition—Equipment.....	191,000
Shasta-Tehama-Trinity Community College District	
Shasta College	
(25) 40.57.101—Architectural barrier removal—Preliminary plans, working drawings, and construction	206,000
Sonoma County Junior College District	
Santa Rosa Junior College	
(26) 40.61.101—Child care/development facility—Preliminary plans and working drawings.....	159,000
South County Community College District	
Chabot College	
(27) 40.62.108—Child care/development facility—Preliminary plans and working drawings.....	104,000
Ventura County Community College District	
Moorpark College	
(28) 40.65.104—Architectural barrier removal—Preliminary plans, working drawings, and construction	180,000
(29) 40.65.105—Graphics Secondary Effects—Preliminary plans, working drawings, and construction	349,000
Yuba Community College District	
Yuba College	
(30) 40.71.103—Architectural barrier removal—Preliminary plans, working drawings, and construction	120,000

Item	Amount
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, as reappropriated by Item 6870-491, Budget Act of 1990:	
Contra Costa Community College District	
Los Medanos College	
(2) 40.13.207—Music Addition—Construction and Equipment	
Los Angeles Community College District	
East Los Angeles College	
(7) 40.26.101—Vocational Building—Construction	
Los Angeles Southwest College	
(8) 40.26.601—Technical Education Center—Construction	
Marin Community College District	
Indian Valley Campus	
(9) 40.28.101—Retrofit for Welding-/Machine Shop—Working Drawings and Construction	
South County Community College District	
Chabot College	
(17) 40.62.201—Learning Resource Center—Construction and Equipment	
Item 6870-301-660, Budget Act of 1990:	
Antelope Valley Community College District	
Antelope Valley College	
(1) 40.03.103—Library Building—Working Drawings and Construction	
El Camino Community College District	
El Camino College	
(2) 40.14.103—Library Addition—Construction	
Los Angeles Community College District	
Los Angeles Southwest College	
(3) 40.26.602—Indoor Physical Education Facilities—Working Drawings and Construction	

Item	Amount
West Los Angeles College	
(4) 40.26.902—Aerospace Complex—Construction	
Los Rios Community College District	
Placerville Center	
(5) 40.27.403—Phase I, Facilities—Working Drawings and Construction	
Napa Valley Community College District	
Upper Valley Center	
(6) 40.35.202—Onsite Development and Permanent Facilities—Construction and Equipment	
San Francisco Community College District	
San Francisco City College	
(8) 40.48.103—Library Building—Construction	
Santa Monica Community College District	
Santa Monica College	
(9) 40.55.101—Technology Building Addition—Construction	
Sonoma County Junior College District	
Petaluma Center	
(10) 40.61.202—Permanent Facilities—Construction	
Ventura County Community College District	
Oxnard College	
(11) 40.65.203—Indoor Physical Education Facility—Construction	
Victor Valley Community College District	
Victor Valley College	
(12) 40.66.102—Indoor Physical Education Facility—Construction and Equipment	
Yosemite Community College District	
Modesto Junior College	
(13) 40.70.204—FireTrainingCenter—Construction	
785—Higher Education Capital Outlay Bond Fund of 1988	
Item 6870-301-785, Budget Act of 1988, as reappropriated by Item 6870-492, Budget Act of 1989, as reappropriated by Item 6870-491, Budget Act of 1990:	
Allan Hancock Community College District	
Allan Hancock College	

Item	Amount
(4) 40.02.108—Performing Arts Addition—Working Drawings and Construction	
Foothill-DeAnza Community College District	
Foothill College	
(15) 40.15.201—Remove Architectural Barriers to Handicapped—Working Drawings and Construction	
Grossmont-Cuyamaca Community College District	
Cuyamaca College	
(20) 40.19.106—Outdoor Physical Education Facility—Construction	
Peralta Community College District	
Laney College	
(31) 40.40.301—Remove Architectural Barriers—Working Drawings and Construction	
San Mateo County Community College District	
College of San Mateo	
(47) 40.52.201—Remove Architectural Barriers to Handicapped—Working Drawings and Construction	
Victor Valley Community College District	
Victor Valley College	
(58) 40.66.101—Remove Architectural Barriers to Handicapped—Working Drawings and Construction	
Item 6870-301-785, Budget Act of 1989, as reappropriated by Item 6870-491, Budget Act of 1990:	
Contra Costa Community College District	
Diablo Valley College	
(14) 40.13.208—Library Lighting—Working Drawings and Construction	
Los Rios Community College District	
Cosumnes River College	
(30) 40.27.203—Remodel Laboratories—Working Drawings, Construction, and Equipment	
Marin Community College District	
College of Marin	
(34) 40.28.201—Landscape Management Retrofit—Working Drawings and Construction	

Item	Amount
(35) 40.28.202—Remodel for Student Services—Working Drawings and Construction	
Pasadena Community College District	
Pasadena City College	
(45) 40.39.102—Central Plant Seismic Safety—Working Drawings and Construction	
San Diego Community College District	
San Diego Mesa College	
(62) 40.47.303—Central Utility Plant—Construction	
Sonoma County Junior College District	
Petaluma Center	
(69) 40.61.201—Site Development—Working Drawings and Construction	
791—Higher Education Capital Outlay Bond Fund	
Item 6870-301-791, Budget Act of 1990:	
Allan Hancock Community College District	
Allan Hancock College	
(2) 40.02.109—Site Development, Phase II—Working Drawings and Construction	
Antelope Valley Community College District	
Antelope Valley College	
(4) 40.03.102—Administration Building—Working Drawings and Construction	
Cabrillo Community College District	
Cabrillo College	
(5) 40.06.102—Food Technology Expansion—Working Drawings, Construction, and Equipment	
(6) 40.06.103—Architectural Barriers Removal—Working Drawings and Construction	
Coast Community College District	
Golden West College	
(16) 40.11.203—Math/Science Building Reconstruction—Working Drawings and Construction	
Orange Coast College	
(17) 40.11.304—Architectural Barrier Removal—Working Drawings and Construction	

Item	Amount
Contra Costa Community College District	
Diablo Valley College	
(19) 40.13.206—Skills Center Addition—Construction	
El Camino Community College District	
El Camino College	
(20) 40.14.104—Child Care/Development Facility—Construction and Equipment	
Foothill-DeAnza Community College District	
Foothill College	
(24) 40.15.202—Library Remodel/Addition—Working Drawings and Construction	
Glendale Community College District	
Glendale College	
(27) 40.18.110—Building T Remodel/Addition—Construction	
(28) 40.18.111—Training Center, Phase I—Construction	
(30) 40.18.113—Fire Access Road—Working Drawings and Construction	
Grossmont-Cuyamaca Community College District	
Districtwide	
(31) 40.19.001—Architectural Barrier Removal—Working Drawings and Construction	
Cuyamaca College	
(33) 40.19.109—Indoor Physical Education Facility, Gymnasium—Construction	
Los Angeles Community College District	
West Los Angeles College	
(41) 40.26.901—Indoor Physical Education Facility/Construction	
Los Rios Community College District	
Sacramento City College	
(42) 40.27.304—Child Care/Development Facility—Construction and Equipment	
Placerville Center	
(43) 40.27.402—Onsite Development Working Drawings and Construction	

Item	Amount
Merced Community College District	
Merced College	
(47) 40.30.101—Architectural Barrier Removal—Working Drawings and Construction	
Mt. San Antonio Community College District	
Mt. San Antonio College	
(49) 40.33.104—Child Care/Development Addition—Construction and Equipment	
Mt. San Jacinto Community College District	
Mt. San Jacinto College	
(52) 40.34.102—Dance Lab Conversion—Working Drawings, Construction, and Equipment	
Napa Valley Community College District	
Napa Valley College	
(55) 40.35.102—Architectural Barrier Removal—Working Drawings and Construction	
Rio Hondo Community College District	
Rio Hondo College	
(60) 40.43.101—Photo Lab Renovation—Working Drawings, Construction, and Equipment	
Saddleback Community College District	
Irvine Valley College	
(66) 40.45.113—Indoor P.E. Gymnasium—Construction and Equipment	
(67) 40.45.114—Child Care/Development Facility—Construction and Equipment	
(68) 40.45.119—Architectural Barrier Removal—Working Drawings and Construction	
(69) 40.45.120—Building B Secondary Effect—Working Drawings, Construction, and Equipment	
Saddleback College	
(70) 40.45.208—Child Care/Development Facility—Construction and Equipment	
(71) 40.45.209—Chemical Storage Building—Working Drawings, Construction, and Equipment	

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(72) 40.45.210—Main Electrical Feeder—Working Drawings and Construction	
San Diego Community College District	
San Diego Maramar College	
(75) 40.47.302—Child Care/Development Facility—Construction and Equipment	
San Jose-Evergreen Community College District	
Evergreen College	
(76) 40.50.101—Remodel Technical Education Clusters—Working Drawings, Construction and Equipment	
Santa Barbara Community College District	
Santa Barbara City College	
(77) 40.53.111—Administration Secondary Effects—Working Drawings and Construction	
(78) 40.53.112—Hotel Management Secondary Effects—Working Drawings and Construction	
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	
Solano County Community College District	
Solano College	
(83) 40.60.101—Aero Maintenance Hanger—Working Drawings, Construction and Equipment	
Ventura County Community College District	
Moorpark College	
(85) 40.65.102—Architectural Barriers Removal—Working Drawings and Construction	
West Valley-Mission Community College District	
Mission College	
(90) 40.69.201—Indoor Physical Education, Gymnasium—Working Drawings, Construction, and Equipment	

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6870-496—Reversion, Board of Governors of California Community Colleges. As of June 30, 1991, the unencumbered balances, or portion thereof as specified in this item, of the appropriations provided in the following citations shall revert to the fund balance of the fund from which the appropriation was made:		
791—June 1990 Higher Education Capital Outlay Bond Fund		
West Valley-Mission Community College District		
Mission College		
(1) Item 6870-301-791(90), Budget Act of 1990 40.69.201—Indoor Physical Education Gymnasium—Working Drawings, Construction, and Equipment.		
Foothill-DeAnza Community College District		
DeAnza College		
(2) Item 6870-301-791(22), Budget Act of 1990 40.15.101—Computer/Electronics / Telecommunication Building — Equipment	685,000	
6880-001-305—For support of Council for Private Postsecondary and Vocational Education		2,861,000
Schedule:		
(a) 10-Oversight and Approval	2,861,000	
(b) 20.10-Administration	1,657,000	
(c) 20.20-Administration—Distributed	−1,657,000	
6880-001-890—For support of Council for Private Postsecondary and Vocational Education, Program 10—Oversight and Approval		1,212,000
7980-001-001—For support of the Student Aid Commission		3,758,000
Schedule:		
(a) 15-Financial Aid Grants Program	3,782,000	
(b) 50-California Loan Program	23,311,000	
(c) 80.01-Administration and Support Services	7,257,000	
(d) 80.02-Distributed Administration and Support Services	−6,975,000	
(e) Unallocated trigger reduction	−10,000	
(f) Reimbursements	−53,000	

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(g) Amount payable from the State Guaranteed Loan Reserve Fund (Item 7980-001-951) ..... -23,554,000

7980-001-305—For support of the Student Aid Commission, payable from the Private Postsecondary and Vocational Education Administration Fund 109,000

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... 23,554,000

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 canceled 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 324,006,000

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 324,000,000

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

Item		Amount
	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; (3) payment to contracted collection agencies for services provided; and (4) refund of (a) student loan insurance premiums due lenders on canceled loans, (b) student borrower overpayments, or (c) collections made in error.		
7980-101-001—For local assistance, Student Aid Commission		163,371,000
Schedule:		
(a) 15-Financial Aid Grants Program.	182,140,000	
(b) Trigger reduction	−6,807,000	
(c) Reimbursements	−866,000	
(d) Amount payable from the Federal Trust Fund (Item 7980-101-890)	−11,096,000	
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 graduate fellowship awards under the provisions of Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of the Education Code.		

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(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) For new and renewal Cal Grant awards in amounts not to exceed award levels comparable to those in effect for the 1990–91 award year except as otherwise provided by law.

2. Notwithstanding any other provision of law, of the 17,400 new grants funded in Schedule (a) for Cal Grant A for the 1991–92 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 12,250 new grants funded in Schedule (a) for Cal Grant B for the 1991–92 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 1991–92 fiscal year exceed budgeted levels, the funds appropriated shall, to the extent allowable by federal law, be reduced on a dollar-per-dollar basis.

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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 $59,000 for the purposes of determining recipients for the 1991–92 award year.		
7980-101-890—For local assistance, Student Aid Commission, for payment to Item 7980-101-001, payable from the Federal Trust Fund		11,096,000
7980-101-951—For local assistance, Student Aid Commission, for student counseling in conjunction with the Cal-SOAP program		60,000

GENERAL GOVERNMENT

8100-001-001—For support of Office of Criminal Justice Planning		5,036,000
Schedule:		
(a) 20.01-Administration	3,031,000	
(b) 20.02-Distributed Administration	−2,968,000	
(c) 50-Local Project Awards	10,747,000	
(d) Unallocated trigger reduction	−21,000	
(e) Reimbursements	−1,024,000	
(f) Amount payable from Asset Forfeiture Distribution Fund (Item 8100-001-196)	−67,000	
(g) Amount payable from Local Public Prosecutors and Public Defenders Training Fund (Item 8100-001-241)	−72,000	
(h) Amount payable from Victim/Witness Assistance Fund (Item 8100-001-425)	−2,349,000	
(i) Amount payable from the Federal Trust Fund (Item 8100-001-890)	−2,241,000	
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
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		72,000
Provisions:		
1. Notwithstanding any other provisions of law restricting the costs of administering individual		

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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		2,349,000
8100-001-890—For support of Office of Criminal Justice Planning, for payment to Item 8100-001-001, payable from the Federal Trust Fund		2,241,000
8100-011-196—For transfer by the Controller as of June 30, 1991 from the Asset Forfeiture Distribution Fund to the General Fund		(3,038,000)
8100-101-001—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards		21,990,000
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	2,110,000	
(f) 50.41.030-California Gang Violence Suppression Program	4,804,000	
(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	
(k) 50.61.010-Public Prosecutors and Public Defenders	30,000	
(*l*) 50.61.020-Child Sexual Abuse Prevention and Training	700,000	

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(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	
(q) Unallocated trigger reduction	−916,000	
(r) Reimbursements	−670,000	

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, for the support of local county offices of education for gang risk intervention pilot programs, to be distributed pursuant to Assembly Bill 192 2,566,000

Provisions:

1. Notwithstanding Section 2.00 of this act, this appropriation shall be available without regard to fiscal year.

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 1,008,000

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.

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8100-101-425—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards, payable from the Victim/Witness Assistance Fund		15,519,000
Schedule:		
(a) 50.21.010-Victim/Witness Assistance Program	10,400,500	
(b) 50.21.020-Rape Crisis Program	4,050,500	
(c) 50.21.030-Child Sexual Abuse and Exploitation Program	1,068,000	
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.		
8100-101-890—For local assistance, Office of Criminal Justice Planning, Program 50, Local Project Awards, payable from the Federal Trust Fund		56,170,000
Schedule:		
(a) 50.21.040-Domestic Violence Program	799,000	
(b) 50.21.060-Victims of Crime Act (VOCA)	6,757,000	
(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	40,635,000	
(g) 50.71.140-Federal Anti-Drug Abuse Campaign Against Marijuana Planting	2,632,000	
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		

Item		Amount
problems according to the criteria set forth by the office.		
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	
8100-121-001—For local assistance, (Proposition 98), Office of Criminal Justice Planning, Program 50, Local Project Awards		26,470,000
Schedule:		
(a) 50.41.020 Suppression of Drug Abuse in Schools Program	26,470,000	
Provisions:		
1. Notwithstanding the provisions of Section 13864 of the Penal Code which establishes the Comprehensive Alcohol and Drug Prevention Education Program, supplementing the suppression of Drug Abuse in Schools Program, for grades 4 through 6, $9,770,000 is appropriated in this item to be made available to school districts or county offices of education for the following:		
(a) $2,000,000 for four pilot programs in the CADPE program ($500,000 for each pilot). The pilots are located in the Counties of Alameda and Los Angeles (K–3 grades); and Orange and San Francisco (7–8 grades).		
(b) $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.		

Item		Amount
8120-001-268—For support of Commission on Peace Officer Standards and Training, payable from the Peace Officers' Training Fund		8,500,000
Schedule:		
(a) 10-Standards	4,322,000	
(b) 20-Training	7,087,000	
(c) 30-Peace Officer Training Reimbursement	86,000	
(d) 40.01-Administration	3,033,000	
(e) 40.02-Distributed Administration	−3,033,000	
(f) Amount payable from the Peace Officers' Training Fund (Item 8120-011-268)	−2,995,000	
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		2,995,000
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.		
8120-021-268—Notwithstanding any other provision of law, for transfer by the State Controller from the Peace Officers' Training Fund to the General Fund, any reserve in excess of five percent of the expenditures from the fund, as of June 30, 1992.		
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		33,500,000
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 Chair-		

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person 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 ...		11,312,000
Schedule:		
(a) 10-State Public Defender	11,407,000	
(b) Trigger reduction	−91,000	
(c) 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		3,719,000
Schedule:		
(a) Local Assistance	3,874,000	
(b) Trigger reduction	−155,000	
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.		

Item		Amount
8200-001-001—For support of Commission for Economic Development		606,000
Schedule:		
(a) 10-Commission for Economic Development	619,000	
(b) Trigger reduction	−10,000	
(c) Reimbursements	−3,000	
8260-001-001—For support of California Arts Council		2,915,000
Schedule:		
(a) 10-Artists in Residence	838,000	
(b) 20-Organizational Grants	1,461,000	
(c) 25-Performing Arts Touring/Presenting Program	432,000	
(d) 40-Statewide Projects	623,000	
(e) 45-California Challenge Program	81,000	
(f) 50.01-Administration	1,519,000	
(g) 50.02-Distributed Administration	−1,519,000	
(h) Unallocated trigger reduction	−69,000	
(i) Amount payable from the Federal Trust Fund (Item 8260-001-890)	−451,000	
8260-001-890—For support of the California Arts Council, for payment to Item 8260-001-001, payable from the Federal Trust Fund		451,000
8260-101-001—For local assistance, California Arts Council for grants and subventions		11,520,000
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	
(e) Unallocated trigger reduction	−480,000	
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		511,000
Schedule:		
(a) 10-Artists in Residence	221,000	
(b) 20-Organizational Grants	214,000	
(c) 25-Performing Arts Touring/Presenting Program	76,000	

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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 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		893,000
Schedule:		
(a) 45-California Challenge Program.	930,000	
(b) Trigger reduction	−37,000	
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.		
8280-001-001—For support of Native American Heritage Commission		319,000
Schedule:		
(a) 10-Native American Heritage Commission	326,000	
(b) Trigger reduction	−7,000	
8300-001-001—For support of Agricultural Labor Relations Board		6,717,000
Schedule:		
(a) 10-Board Administration	2,896,000	
(b) 20-General Counsel Administration	3,988,000	
(c) 30.01-Administrative Services	577,000	

Item		Amount
(d) 30.02-Distributed Administrative Services	−577,000	
(e) Unallocated trigger reduction	−167,000	
8320-001-001—For support of Public Employment Relations Board		6,349,000
Schedule:		
(a) 10-Dispute Resolution	5,182,000	
(b) 20-Representation	1,312,000	
(c) 30.01-Administration	1,248,000	
(d) 30.02-Distributed Administration	−1,248,000	
(e) Unallocated trigger reduction	−145,000	
Provisions:		
1. None of the funds appropriated in this item shall be used by the Public Employment Relations Board to support or provide staff assistance to the California Foundation for the Improvement of Employer-Employee Relations.		
8350-001-001—For support of Department of Industrial Relations		117,647,000
Schedule:		
(a) 10-Regulation of Workers' Compensation Self-Insurance Plans	2,364,000	
(b) 20-Conciliation of Employer-Employee Disputes	2,163,000	
(c) 30-Workers' Compensation Administration	79,335,000	
(d) 30.30-Industrial Medical Council	2,118,000	
(e) 40-The Prevention of Industrial Injuries and Deaths of California Workers	51,541,000	
(f) 50-Enforcement and Promulgation of Laws Relating to Wages, Hours, and Conditions of Employment, and Licensing and Adjudication	25,698,000	
(g) 60-Promotion, Development, and Administration of Apprenticeship and other on-the-job training	3,972,000	
(h) 70-Labor Force Research and Data Dissemination	3,478,000	
(i) 80-Payment of claims, wages, and contingencies	19,960,000	
(j) 94.01-Administration	13,999,000	
(k) 94.02-Distributed Administration	−13,999,000	
(*l*) Unallocated trigger reduction	−3,509,000	
(m) Reimbursements	−2,522,000	

Item	Amount
(n) Amount payable from the Farm Labor Contractor's Special Account (Item 8350-001-023)	−50,000
(o) Amount payable from the Industrial Relations Construction Industry Enforcement Fund (Item 8350-001-216)	−682,000
(ox) Amount payable from the Workplace Health and Safety Revolving Fund	−600,000
(p) Amount payable from Workers' Compensation Administration Revolving Fund (Item 8350-001-223)	−15,486,000
(q) Amount payable from the Self-Insurance Plans Fund (Item 8350-001-396)	−2,064,000
(r) Amount payable from the Elevator Safety Inspection Account, General Fund (Item 8350-001-452)	−4,392,000
(s) Amount payable from the Pressure Vessel Inspection Account, General Fund (Item 8350-001-453)	−3,885,000
(t) Amount payable from the Garment Manufacturer's Special Account (Item 8350-001-481)	−50,000
(u) Amount payable from the Employee's Account, Uninsured Employer's Fund (Item 8350-001-571)	−19,683,000
(v) Amount payable from the Federal Trust Fund (Item 8350-001-890)	−19,166,000
(x) Amount payable from the General Fund (Item 8350-003-001)	−109,000
(y) Amount payable from the Workers' Compensation Administration Revolving Fund (Item 8350-015-223)	−423,000
(z) Amount payable from the Industrial Relations Unpaid Wage Fund (Labor Code Section 96.6)	−60,000
(aa) Amount payable from the Asbestos Consultant Certification Fund (Government Code Sec. 13340)	−301,000

Item Amount

Provisions:

1. Of the funds appropriated for support of Schedule (e), $246,000 shall be encumbered for: (1) routine compliance activities of the Cal/OSHA field enforcement program related to schoolsite asbestos abatement projects, (2) monitoring and compliance inspections covering a 10-percent random sample of school asbestos abatement projects, and (3) registration of asbestos abatement contractors.
2. It is the intent of the Legislature that all private-sector-related activities of the Pressure Vessel Unit shall be funded by fee revenues deposited in the Pressure Vessel Inspection Account. The General Fund shall provide no more than 15 percent of the total funding for the Pressure Vessel Unit.
3. Of the funds appropriated for the support of Category (c), no funds shall be expended for the rent or lease of Workers' Compensation Appeals Board (WCAB) district offices which do not comply with provisions of law requiring that state facilities be accessible and usable by the physically handicapped (Section 4450 of the Government Code).

   Effective January 1, 1992, the Administrative Director of the Division of Workers' Compensation, all of his or her deputy directors, and the members of the Workers' Compensation Appeals Board, shall not receive their salaries as Administrative Director, Deputy Directors, or WCAB commissioners, while any WCAB district facility is not accessible and usable by the physically handicapped in compliance with Section 4450 of the Government Code.

   If any WCAB office is determined not to be accessible and usable in compliance with Section 4450 of the Government Code, the office shall be relocated immediately. In determining the site of WCAB offices, the safety, convenience, comfort, including shelter from the elements, of injured workers, employers, representatives of injured workers or employers, witnesses, and employees of the state, along with the requirements of Section 4450 of the Government Code shall be the principal considerations.

Item	Amount
4. Any funds received from apprenticeship program sponsors or participants shall revert to the unappropriated surplus of the General Fund.	
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	682,000
8350-001-222—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Workplace Health and Safety Revolving Fund	600,000
Provisions:	
1. Funds appropriated in this item are for the purpose of supporting the activites of the Health and Safety Commission within the Department of Industrial Relations, as established by Chapter 892, Statutes of 1989.	
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	15,486,000
8350-001-396—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Self-Insurance Plans Fund	2,064,000
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	4,392,000
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	3,885,000
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	19,683,000
8350-001-890—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Federal Trust Fund	19,166,000

Item		Amount
8350-003-001—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the General Fund		109,000
8350-011-001—For support of Department of Industrial Relations, payable from the General Fund, for transfer to the Uninsured Employer's Account		16,308,000
8350-015-223—For support of Department of Industrial Relations, for payment to Item 8350-001-001, payable from the Workers' Compensation Administration Revolving Fund		423,000
8350-495—Reversion, Department of Industrial Relations. As of June 30, 1991, notwithstanding any other provision of law, $4,100,000 of the appropriation provided in Chapter 467, of the Statutes of 1990 (Item 8350-001-223), shall revert to the General Fund.		
8380-001-001—For support of Department of Personnel Administration		8,282,000
Schedule:		
(a) 20-Labor Relations	1,702,000	
(b) 25-Legal	1,178,000	
(c) 40.01-Administration	3,493,000	
(d) 40.02-Distributed Administration	−3,493,000	
(e) 52-Classification and Compensation	4,098,000	
(f) 54-Benefits Administration	3,873,000	
(g) 56-Training and Development	2,463,000	
(h) 58-Merit Award	374,000	
(i) Unallocated trigger reduction	−175,000	
(j) Reimbursements	−3,282,000	
(k) Amount payable from the Flexelect Benefit Fund (Item 8380-001-821)	−647,000	
(*l*) Amount payable from the Deferred Compensation Plan Fund (Item 8380-001-915)	−1,302,000	
8380-001-821—For support of Department of Personnel Administration, for payment to Item 8380-001-001, payable from the Flexelect Benefit Fund		647,000
8380-001-915—For support of Department of Personnel Administration, for payment to Item 8380-001-001, payable from the Deferred Compensation Plan Fund		1,302,000
8385-001-001—For support of California Citizens Compensation Commission		98,000

Item		Amount
Schedule:		
(a) 10-California Citizens Compensation Commission	102,000	
(b) Trigger reduction	−4,000	
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	
(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 1991–92, 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 Trea-		

Item		Amount
sury 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.		
8500-001-152—For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund		1,414,000
Schedule:		
(a) 10-Board of Chiropractic Examiners	1,444,000	
(b) Reimbursements	−30,000	
8510-001-264—For support of Board of Osteopathic Examiners, payable from the Board of Osteopathic Examiners Contingent Fund		405,000
Schedule:		
(a) 10-Board of Osteopathic Examiners	416,000	
(b) Reimbursements	−11,000	
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		1,512,000
Schedule:		
(a) 10.01 Support	568,000	
(b) 10.02 Training	944,000	
8540-001-114—For support of California Auctioneer Commission, Program 10, payable from the Auctioneer Commission Fund		277,000
8550-001-191—For support of California Horse Racing Board, payable from the Fair and Exposition Fund		8,468,000
Schedule:		
(a) 100000-Personal Services	2,996,000	
(b) 300000-Operating Expenses and Equipment	5,782,000	
(c) Amount payable from the Racetrack Security Account, Special Deposit Fund (Item 8550-001-942)	−310,000	

Item	Amount
Provisions: 1. Of the amount appropriated in this item, $135,000 shall be transferred to the Auditor General (Item 0155-001-001) for the purpose of contracting for an independent study consistent with the following subdivisions, to evaluate the potential economic and state revenue impacts which could occur if the Bay Meadows and Golden Gate Fields horse racing meets are consolidated. (a) The study shall indicate the magnitude of direct and indirect effects on the state and any particular industry, trade, profession, or subgroup or specialty of any industry, trade, or profession, or any identifiable business entity, including employees of the tracks and affected area businesses. (b) The Auditor General shall be responsible for managing the contract, including preparation of the request for proposal, reviewing submitted proposals and bids, and selecting an independent contractor to conduct the study. (c) The study shall be submitted to the Legislature not later than April 1, 1992. California Horse Racing Board shall not take any action which would result in the consolidation of racing at these tracks prior to the completion of the required study. 2. The California Horse Racing Board shall report on or before January 1, 1992, to the appropriate legislative policy and fiscal committees concerning the implementation of the postmortem requirements of Section 1846.5 of Division 4 of Title 4 of the California Code of Regulations.	
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, 1992.....	(1,900,000)

Item			Amount
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			14,962,000
Schedule:			
(a) 100000-Personal Services		8,156,000	
(b) 300000-Operating Expenses and Equipment		8,026,000	
(c) Reimbursements		−905,000	
(d) Amount payable from the State Fair Police Special Account (Item 8560-011-466)		−50,000	
(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 Exposition and State Fair pursuant to subdivision (a) of Section 4403 of the Food and Agricultural Code.			
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			50,000
8560-301-510—For capital outlay, California Exposition and State Fair, payable from the California Exposition and State Fair Enterprise Fund			2,076,000

Item		Amount
Schedule:		
(1)	50.01.001-Unanticipated Capital Outlay Projects—Preliminary plans, working drawings and construction	250,000
(2)	50.01.002-Waterway Infill—Preliminary plans, working drawings and construction	451,000
(3)	50.01.003-Irrigation System—Study.	22,000
(4)	50.01.004-Sound System—Preliminary plans and working drawings and construction	250,000
(5)	50.01.005-Budget Package/Schematic Planning	30,000
(6)	50.10.201-Minor projects	1,073,000

Provisions:

1. It is the intent of the Legislature to provide Cal-Expo sufficient opportunity to respond to available attractions and facility needs identified by fair goers prior to the succeeding fair. In order to accomplish this intent the funds appropriated in category (1) of this item are to be expended only on projects which; (1) may be completed prior to the following fair opening date, (2) projects must address health safety or other conditions which would impact visitor attendance and (3) project where no other viable temporary solution is available. Funds appropriated in category (1) of this item are subject to Department of Finance approval prior to expenditures. Projects may not be authorized sooner than 15 days after notification in writing of the necessity therefor to the chairperson of the Joint legislative Budget Committee.
2. Funds appropriated in category (5) 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 1992–93 or 1993–94 Governor's Budget.
3. Of the funds appropriated in category (2) of this item, an amount not to exceed $35,000, which is directly attributable to in-house labor for this project, may be transferred to Item 8560-001-510(a), with the approval of the Department of Finance.

Item		Amount
4. Of the funds appropriated in category (4) of this item, an amount not to exceed $10,000, which is directly attributable to in-house labor for this project, may be transferred to Item 8560-001-510(a), with the approval of the Department of Finance.		
5. Of the funds appropriated in category (6) of this item, an amount not to exceed $140,000, which is directly attributable to in-house labor for minor projects, may be transferred to Item 8560-001-510(a), with the approval of the Department of Finance.		
8570-001-001—For support of Department of Food and Agriculture		58,198,000
Schedule:		
(a) 10-Pesticide Regulatory Program.	35,156,000	
(b) 20-Plant Pest and Disease Prevention	37,594,000	
(c) 25-Animal Pest and Disease Prevention/Inspection Services	20,931,000	
(d) 30-Agricultural Marketing Services	4,965,000	
(e) 40-Food and Agricultural Standards and Inspection Services	2,933,000	
(f) 50-Measurement Standards	2,720,000	
(g) 60-Financial and Administrative assistance to local fairs	2,237,000	
(h) 70.01-Executive Management and Administration Services	10,089,000	
(i) 70.02-Distributed Executive Management and Administration Services	−8,778,000	
(j) 80-General Agriculture Activities and Emergency Funding	4,277,000	
(jx) Unallocated reduction	−3,600,000	
(k) Unallocated trigger reduction	−1,027,000	
(*l*) Reimbursements	−3,162,000	
(m) Amount payable from the Special Account for Capital Outlay (Item 8570-001-036)	−278,000	
(n) Amount payable from the Agriculture Fund (Item 8570-001-111)	−35,943,000	
(o) Amount payable from the Agricultural Pest Control Research Account (Item 8570-011-112)	−406,000	

Item		Amount
(q) Amount payable from the Fair and Exposition Fund (Item 8570-001-191)	−1,356,000	
(r) Amount payable from the Satellite Wagering Account (Item 8570-012-192)	−309,000	
(s) Amount payable from the Food Safety Account (Item 8570-001-224)	−1,715,000	
(t) Amount payable from the Harbor and Water Craft Revolving Fund (Item 8570-001-516)	−283,000	
(u) Amount payable from the Agriculture Building Fund (Item 8570-001-601)	−4,086,000	
(v) Amount payable from the Federal Trust Fund (Item 8570-001-890)	−1,761,000	

Provisions:

1. Funds appropriated to Schedule (j) from Item 8570-001-111 are in lieu of the appropriation provided by subdivision (b) of Section 224 of the Food and Agricultural Code for emergency detection, eradication, or research of agricultural plant or animal pests or diseases. The Director of Food and Agriculture may expend the funds with the approval of the Director of Finance. The funds which are so appropriated are not subject to Section 6.50 of this act.
2. The department shall increase its meat and poultry inspection fee schedule beginning in the 1991–92 fiscal year, so that at least $62,000 in additional General Fund revenues will be realized annually.

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	278,000
8570-001-111—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Agriculture Fund	35,943,000
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	1,356,000
8570-001-224—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Food Safety Account	1,715,000

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		283,000
8570-001-601—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Agriculture Building Fund		4,086,000
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		1,761,000
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		406,000
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		(246,000)
8570-012-192—For support of Department of Food and Agriculture, for payment to Item 8570-001-001, payable from the Satellite Wagering Account		309,000
8570-015-192—For transfer by the State Controller from the Satellite Wagering Account to the General Fund		(5,000,000)
Provisions:		
1. This transfer is in addition to the transfer required in subdivision (b) of Section 19606.1 of the Business and Professions Code.		
8570-101-001—For local assistance, Department of Food and Agriculture		10,620,000
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) Unallocated trigger reduction	−322,000	
(g) Amount Payable from the General Fund (Item 8570-111-001)	−368,000	

Item		Amount
(h) Unallocated trigger reduction to General Fund Item 8570-111-001.	−15,000	
(i) Amount Payable from the Agriculture Fund (Item 8570-101-111)	−34,000	
(j) 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 require 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.

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.

Item	Amount
8570-111-001—For local assistance, Department of Food and Agriculture, for payment to Item 8570-101-001	368,000
Provisions:	
1. The funds in this item are also available for compensation for services performed for agricultural departments and are to be expended in accordance with the provisions of Sections 2221 to 2224, inclusive, of the Food and Agricultural Code.	
8570-301-036—For capital outlay, Department of Food and Agriculture, payable from the Special Account for Capital Outlay	449,000
(3) 90.90.010-Minor Projects 449,000	
8570-401—For support of the Department of Food and Agriculture: Notwithstanding any other provision of law, $2,500,000 of the funds appropriated pursuant to subdivision (c) of Section 224 of the Food and Agricultural Code shall be allocated to counties in a manner prescribed by the director for pest detection/trapping programs. These funds are intended to supplement funds available for pest detection/trapping in Item 8570-101-001. As a condition of receiving these funds, counties shall notreduce their level of support from any other funds for pest detection/trapping programs. Should a county decline to participate in a pest detection-/trapping program, the director shall reduce, by the amount that would otherwise be allocated to the county, funds available pursuant to subdivision (c) of Section 224 and other state allocations from Item 8570-101-001. These funds are hereby appropriated to the Department of Food and Agriculture for purposes of operating the pest detection-/trapping programs in the counties.	
8620-001-001—For support of the Fair Political Practices Commission	2,902,000
Schedule:	
(a) 10.10-Local enforcement 891,000	
(b) 10.20-Legal, technical assistance and state enforcement 2,047,000	
(c) Unallocated trigger reduction −36,000	

Item			Amount
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			2,054,000
Schedule:			
(1) 10-Secretary of State		718,000	
For transfer by the State Controller to Item 0890-001-001 as follows:			
(a) Personal Services..	460,000		
(b) Operating Expenses and Equipment	258,000		
(2) 20-Franchise Tax Board		1,200,000	
For transfer by the State Controller to Item 1730-001-001 as follows:			
(c) 30-Political Reform Audit	1,200,000		
(3) 30-Department of Justice		229,000	
For transfer by the State Controller to Item 0820-001-001 as follows:			
(e) 40-Criminal Law...	84,000		
(g) 50-Law Enforcement	145,000		
(4) 40-Fair Political Practices Commission		(3,101,000)	
(5) Reimbursements		−8,000	
For transfer by the State Controller to Item 0890-001-001(d)			
(6) Unallocated trigger reduction		−85,000	
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			1,825,000
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			3,212,000
8660-001-412—For support of Public Utilities Commission, payable from the Transportation Rate Fund			21,470,000
Schedule:			
(a) 100000-Personal Services		59,281,000	
(b) 300000-Operating Expenses and Equipment		24,166,000	

Item		Amount
(c) Reimbursements	−2,637,000	
(d) Amount payable from the State Highway Account, State Transportation Fund (Item 8660-001-042)	−1,825,000	
(e) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 8660-001-046)	−3,212,000	
(f) Amount payable from the Public Utilities Commission Transportation Reimbursement Account, General Fund (Item 8660-001-461)	−5,289,000	
(g) Amount payable from the Public Utilities Commission Utilities Reimbursement Account, General Fund (Item 8660-001-462)	−48,884,000	
(h) Amount payable from the Federal Trust Fund (Item 8660-001-890)	−130,000	
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		5,289,000
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		48,884,000
8660-001-890—For support of Public Utilities Commission, for payment to Item 8660-001-412, payable from the Federal Trust Fund		130,000
8660-301-412—For capital outlay, Public Utilities Commission, payable from the Transportation Rate Fund		46,000
Schedule:		
(1) 90.10.000-Minor Projects	46,000	
8660-301-461—For capital outlay, Public Utilities Commission, payable from the Public Utilities Commission Transportation Reimbursement Account, General Fund		10,000
Schedule:		
(1) 90.10.000-Minor Projects	10,000	
8660-301-462—For capital outlay, Public Utilities Commission, payable from the Public Utilities Commission Reimbursement Account, General Fund		84,000
Schedule:		
(1) 90.10.000-Minor Projects	84,000	

Item		Amount
8700-001-001—For support of State Board of Control...		1,218,000
Schedule:		
(a) 11-Citizens Indemnification	37,904,000	
(b) 21-Hazardous Substance Claims...	21,000	
(c) 31-Civil Claims Against the State.	1,269,000	
(d) 51.01-Administration	2,809,000	
(e) 51.02-Distributed Administration .	−2,809,000	
(f) Unallocated trigger reduction	−51,000	
(g) Reimbursements	−21,000	
(h) Amount payable from the Restitution Fund (Item 8700-001-214)	−22,460,000	
(i) Amount payable from the Federal Trust Fund (Item 8700-001-890) ..	−15,444,000	
Provisions:		
1. The Board of Control shall not routinely notify all local agencies and school districts regarding its proceedings. However, for each of its meetings, the board shall notify all parties whose claims or proposals are scheduled for consideration and any party requesting notice of 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		22,460,000
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		15,444,000

Item		Amount
8730-001-001—For support of Commission on State Finance		945,000
Schedule:		
(a) 10-Commission on State Finance	952,000	
(b) Trigger reduction	−7,000	
8780-001-001—For support of Commission on California State Government Organization and Economy		719,000
Schedule:		
(a) 10-Commission on California State Government Organization and Economy	726,000	
(b) Trigger reduction	−5,000	
(c) Reimbursements	−2,000	
8800-001-001—For support of Memberships in Interstate Organizations		1,132,000
Schedule:		
(a) 10-Council of State Governments	285,000	
(b) 20-National Conference of State Legislatures	280,000	
(c) 30-Western States Legislative Forestry Task Force	22,000	
(d) 35-Pacific Fisheries Legislative Task Force	15,000	
(e) 40-Governmental Accounting Standards Board	69,000	
(f) 50-State and Local Legal Center	8,000	
(g) 60-National Governors' Association	134,000	
(h) 70-Council of State Policy and Planning Agencies	13,000	
(i) 80-Coastal States' Organization	11,000	
(j) 90-Western Governors' Association	41,000	
(k) 91-National Center for State Courts	254,000	
8820-001-001—For support of Commission on the Status of Women		612,000
Schedule:		
(a) 100000-Personal Services	472,000	
(b) 300000-Operating Expenses and Equipment	153,000	
(c) Unallocated trigger reduction	−8,000	
(d) Reimbursements	−5,000	

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ules 1, 2, 3 and 4 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 7,798,000

Schedule:

(1) 68.70.000.184—Health fee 1,470,000

(3) Implementation of Chapter 1485, Statutes of 1988, Veto Message.... 6,328,000

Provisions:

1. Except as provided in Provision 2 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.
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.

Item		Amount
8910-001-001—For support of Office of Administrative Law		3,069,000
Schedule:		
(a) 10—Regulatory Oversight	2,234,000	
(b) 20—Legal Information Systems	1,073,000	
(c) 30.01—Administration	1,013,000	
(d) 30.02—Distributed Administration	−1,013,000	
(e) Unallocated trigger reduction	−38,000	
(f) Reimbursements	−200,000	
8915-001-001—For support of Department of Economic Opportunity, for payment to Item 8915-001-890		87,000
8915-001-890—For support of Department of Economic Opportunity, payable from the Federal Trust Fund.		7,497,000
Schedule:		
(a) 20—Energy Programs	6,613,000	
(b) 30—Special Programs	87,000	
(c) 40—Community Services	1,904,000	
(d) 50.01—Administration	3,197,000	
(e) 50.02—Distributed Administration	−3,197,000	
(f) Reimbursements	−1,020,000	
(g) Amount payable from the General Fund (Item 8915-001-001)	−87,000	

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 1991–92 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

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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 ..... (6,467,000)

8915-101-853—For local assistance, Department of Economic Opportunity, for payment to Item 8915-101-890, payable from the Petroleum Violation Escrow Account 3,300,000

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 95,826,000

Schedule:

(a) 20-Energy Programs 64,778,000
(b) 40-Community Services 34,348,000
(c) Amount payable from the Petroleum Violation Escrow Account (Item 8915-101-853) ..... −3,300,000

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

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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 1991–92.		
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 $3,300,000 in Petroleum Violation Escrow Account funds that are included in Program 20 for the Home Energy Assistance Program shall be expended for low income home energy assistance.		
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, 1992, as follows:		
853-Petroleum Violation Escrow Account		
(a) Item 8915-101-853, Budget Act of 1990		
890-Federal Trust Fund		
(a) Item 8915-101-890, Budget Act of 1990		
8940-001-001—For support of Military Department		22,504,000
Schedule:		
(a) 10-Army National Guard	37,764,000	
(b) 20-Air National Guard	9,222,000	
(c) 30.01-Office of the Adjutant General	5,982,000	
(d) 30.02-Distributed Office of the Adjutant General	−5,982,000	
(e) 35-Military Support to Civil Authority	801,000	
(f) 40-Military Retirement	2,387,000	
(g) 50-California Cadet Corps	549,000	
(h) 55-State Military Reserve	293,000	
(i) 60-Farm and Home Loan	36,000	
(j) 71-California Innovative Military Projects and Career Training	2,299,000	
(jx) 80-California Citizen Soldier Museum	100,000	
(k) Unallocated trigger reduction	−331,000	
(kx) 97-Unallocated Reduction	−100,000	

Item		Amount
(*l*) Reimbursements		−2,706,000
(lx) Amount payable from the Unitary Fund (Item 8940-001-147)		−100,000
(m) Amount payable from the Armory Discretionary Improvement Fund (Item 8940-001-485)		−120,000
(n) Amount payable from the Federal Trust Fund (Item 8940-001-890)		−27,590,000

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 provisions of Sections 228 and 256 of the Military and Veterans Code.

8940-001-147—For support of the Military Department, for payment to Item 8940-001-001, payable from the Unitary Fund for a grant to the California Citizen Soldier Museum in Sacramento, California, for initial operating expenses 100,000

8940-001-485—For support of the Military Department, for payment to Item 8940-001-001, payable from the Armory Discretionary Improvement Fund..... 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 27,590,000

8940-301-036—For capital outlay, Military Department, payable from the Special Account for Capital Outlay 1,707,000

Item		Amount
Schedule:		
(1) 70.10.010-Statewide: Project planning, working drawings, and supervision of construction financed from federal funds	330,000	
(2) 70.22.010-Rancho Cordova—Headquarters Complex-Preliminary plans	983,000	
(3.5) 70.23.010-San Jose-Metcalf—Study	10,000	
(6) 70.90.010-Statewide: Minor Projects	384,000	
Provisions:		
1. The Military Department shall not encumber funds appropriated in category (2) for the Rancho Cordova Headquarters Complex until this project has been approved by the appropriate Department of Defense memorandum on military construction, dated April 10, 1991.		
8940-301-890—For capital outlay, Military Department, payable from the Federal Trust Fund		787,000
Schedule:		
(1) 70.22.010-Rancho Cordova—Headquarters Complex—Preliminary Plans	188,000	
(3) 70.90.010-Statewide: Minor Projects	599,000	
9100-101-001—For local assistance, Tax Relief		788,865,000
Schedule:		
(a) 10-Senior Citizens' Property Tax Assistance	2,893,000	
Trigger Reduction	−116,000	
(b) 20-Senior Citizens' Property Tax Deferral Program	10,500,000	
Trigger Reduction	−420,000	
(c) 30-Senior Citizen Renters' Tax Assistance	14,279,000	
Trigger Reduction	−571,000	
(d) 50-Homeowners' Property Tax Relief	360,000,000	
(e) 60-Subventions for Open Space	14,500,000	
Trigger Reduction	−580,000	
(f) 80-Renters' Tax Relief	388,000,000	
(g) 90-Substandard Housing	396,000	
Trigger Reduction	−16,000	

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amount allocated to any agency shall not exceed the lesser of the amount that the agency would otherwise be entitled to receive in the 1991–92 fiscal year pursuant to paragraph (3) of subdivision (c) of Section 16111 of the Government Code, or the amount pledged by the agency to meet debt service payments in the 1991–92 fiscal year.

3. If the allocation required pursuant to provision 2 would exceed the amount of the appropriation in this Item, the State Controller shall prorate the allocation to those redevelopment agencies which meet the requirements of provision 2.
4. No allocation shall be made to any redevelopment agency pursuant to provision 2 for bond instruments and supporting documents that were executed after July 31, 1990.
5. (a) Any unexpended balance in the appropriation in this Item after allocations are made pursuant to provision 2 shall be allocated, on a prorated basis, to each agency which received an allocation in the 1989–90 fiscal year, pursuant to paragraph (3) of subdivision (c) of Section 16111 of the Government Code, which exceeded 10 percent of all revenue received by that agency in the same fiscal year, as reported in the State Controller's "Annual Report of Financial Transactions Concerning Community Redevelopment Agencies of California, Fiscal Year 1989–90." This proration shall be based on the amount that the agency would otherwise be entitled to receive in the 1991–92 fiscal year pursuant to paragraph (3) of subdivision (c) of Section 16111 of the Government Code.

   (b) Any agency which has received an allocation pursuant to provision 2 shall not be eligible to receive an allocation pursuant to this provision.
6. Notwithstanding Section 2.00, the State Controller shall allocate 50 percent of the appropriation in this Item on or before December 31, 1991, and 50 percent of the appropriation in this Item on July 1, 1992. Expenditure of any amount appropriated by this Item to be allocated on July 1, 1992 shall be accounted by the State Controller

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as an expenditure of the 1992–93 fiscal year.

7. This one-year only reduction of $35,000,000 in the special supplemental subvention for redevelopment agencies is being made because of the state's unprecedented fiscal deficit in fiscal year 1991–92.

9210-495—Reversion, Local Government Financing. As of June 30, 1991, 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) Chapter 469, Statutes of 1988.

9620-001-001—For payment of interest on General Fund loans, upon order of the Director of Finance, for any General Fund loan 5,000,000

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 278,125,000

Schedule:

(a) Health benefit premiums..... 247,786,000

(b) Dental care premiums..... 30,339,000

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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.

9650-490—Reappropriation, Health Benefits for Annuitants. Notwithstanding any other provision of law, the unencumbered balance of the funds appropriated in Section 22825.01 of the Government Code to augment Item 9650-001-001 of Section 2 of Chapter 467 of the Statutes of 1990 shall be available to augment Item 9650-001-001 of this act.

9670-001-001—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 9670-001-001 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.
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

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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, settlements, 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.

9670-495—Reversion, Equity Claims of Board of Control and Settlements and Judgements by Department of Justice. As of June 30, 1991, the amount appropriated in subdivision (42.5) of Section 1 of Chapter 1446, Statutes of 1990 shall revert to the Public Buildings Construction Fund.

9673-495—Reversion, San Francisco-Oakland Bay Bridge and I-880 Cypress Structure Disaster Fund. As of June 30, 1991, $20,000,000 of the unencumbered balance of the appropriations provided in the following citations shall revert to the General Fund.

373—San Francisco-Oakland Bay Bridge and I-880 Cypress Structure Disaster Fund

(1) Chapter 22x, Statutes of 1989

(2) Chapter 1669, Statutes of 1990

9800-001-001—For augmentation for Employee Compensation 42,210,000

Schedule:

(a)	10.01—Civil Service Employees —Represented	34,069,000
(b)	10.02—Civil Service Employees —Nonrepresented.....	6,903,000
(c)	10.03—Exempt/Excluded and Other Employees.....	820,000
(d)	10.05—Judiciary	916,000
(e)	10.06—Legislative Employees.....	1,261,000

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(f) Unallocated trigger reduction ..... −1,759,000

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 this item 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, 1991, 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 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.
4. Upon the approval of the Director of Finance, the State Controller shall transfer between Item 9800-001-001 and Item 9800-011-001 those funds necessary to ensure that sufficient funds are available for programs approved by this act.

9800-001-494—For augmentation for Employee Compensation, payable from other unallocated special funds..... 19,880,000

Item		Amount
Schedule:		
(a) 10.01-Civil Service Employees —Represented	15,904,000	
(b) 10.02-Civil Service Employees —Nonrepresented	3,578,000	
(c) 10.03-Exempt/Excluded and Other Employees	398,000	

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 this item 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, 1991, 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.

9800-001-988—For augmentation for Employee Compensation, payable from other unallocated nongovernmental cost funds		15,267,000
Schedule:		
(a) 10.01-Civil Service Employees —Represented	12,213,000	
(b) 10.02-Civil Service Employees —Nonrepresented	2,748,000	
(c) 10.03-Exempt/Excluded and Other Employees	306,000	

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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 this item 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, 1991, 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) 425,000

Schedule:

(a) 10.01—Civil Service Employees —Represented 425,000

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 this item are for compensation increases and increased 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

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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, 1991, 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.

9800-490—Reappropriation, Employee Compensation. Notwithstanding any other provision of law, the funds appropriated in Chapter 1251 of the Statutes of 1990 to augment Items 9800-001-001, 9800-001-494, and 9800-001-988 of the Budget Acts of 1990 and 1991 shall be available for the purposes provided in Chapter 1251 of the Statutes of 1990 until June 30, 1993.

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. . 1,445,000

Schedule:

(a) Payment of Specified Attorney's Fees..... 1,505,000

(b) Trigger reduction..... −60,000

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 1991–92 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 1991–92 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

Item Amount

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 1991–92 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, 1991, the balances of the appropriations made by Items 9840-001-001, 9840-001-494 and 9840-001-988, Budget Act of 1990, shall revert to the unappropriated surplus of the General Fund, special funds, and nongovernmental cost funds, respectively.

Item	Amount
As of July 1, 1991, the amounts reverted as of June 30, 1991, for Items 9840-001-001, 9840-001-494 and 9840-001-988, Budget Act of 1990, are reappropriated and shall be available until June 30, 1992, 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 1990–91 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 1992–93 or 1993–94 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 1991–92 fiscal year.	

Item	Amount
9860-303-036—For transfer to the General Fund	(64,600,000)

Provisions:

1. Notwithstanding any other provision of law, the State Controller shall transfer effective June 30, 1991, the amount of sixty-four million six hundred thousand dollars (64,600,000) to the General Fund from the Special Account for Capital Outlay.

9896-001-164—On or before June 30, 1992, 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 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, 1991, 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 1991–92," submitted by the Governor to the Legislature at the 1991 portion of the 1991–92 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 and the administrative costs associated with the provisions of these 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 and the administrative costs associated with the provisions of these 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 1991–92 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	7.570%
Miscellaneous, Second Tier	3.016%
State Industrial	10.529%
State Safety	13.623%
Highway Patrol	16.157%
Peace Officer/Firefighter	11.831%

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 1991–92 fiscal year retirement benefits.

(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.

(c) Notwithstanding any other provisions of law, 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 subdivisions (a) and (b) are made.

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, 1991.

SEC. 3.90. Notwithstanding any other provision of this act, each item of appropriation in this act shall be reduced, as appropriate, to reflect a $351,000,000 reduction in General Fund employee compensation items.

The Director of Finance shall allocate the necessary reductions to each item of appropriation to accomplish the reductions required by this section.

This section shall not apply to appropriations made by Items 0110-001-001, 0120-011-001, and 0160-001-001 of Section 2.00 of this act.

SEC. 4.00. Notwithstanding any other provisions of law, the employer's contributions for the 1991–92 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 $174 for basic and related major medical plans with respect to employees or annuitants enrolled for self alone, or $323 for an employee or annuitant so enrolled for self and one family member, or $410 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 authorized 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 1991–92 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, which was submitted to the Senate and Assembly concurrently with consideration of the Budget Bill for the 1991–92 fiscal year, reflects the intent of the Legislature in enacting the Budget Act of 1991 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 1991 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. 9.30. In the event that federal courts issue writs of execution for the levy of state funds and such writs are executed, the State Controller shall so notify the Department of Finance. The Department of Finance shall then notify the State Controller of the specific

appropriation or fund to be charged. Federal writs of execution for the levy of state funds may only be charged against appropriations or funds having a direct programmatic link to the circumstances under which the federal writ was issued. If the appropriate department or agency no longer exists, or no linkage can be identified, the federal writ shall be charged to the unappropriated surplus of the General Fund. In the event that an appropriation in the act is made deficient by such a charge, funding augmentations must follow the regular budget processes including Section 27.00 of the Budget Act. However, the 30-day notification requirement is waived for payments mandated by federal courts.

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), or (g) of Section 6217 of the Public Resources Code for the 1991–92 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 1991–92 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 1991–92 fiscal year.

(d) Notwithstanding any other provision of law, the amount of eighty million dollars ($80,000,000) shall be allocated to the General Fund for the 1991–92 fiscal year from tidelands oil revenues otherwise subject to Section 6217 of the Public Resources 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 1991–92 fiscal year 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. 12.00. (a) For the purposes of Article XIII B of the California Constitution, there is hereby established a state "appropriations limit" of thirty-two billion one hundred seventy-three million dollars ($32,173,000,000) for the 1991–92 fiscal year, which shall be adjusted pursuant to subdivision (b). Any judicial action or proceeding to attack, review, set aside, void, or annul the "appropriations limit" for the 1991–92 fiscal year shall be commenced within 45 days of the effective date of this act.

(b) For purposes of adjusting the appropriations limit set forth in subdivision (a), "population" for the 1991 fiscal year shall be based on population according to the 1990 census, adjusted to correct for the undercount. The Bureau of the Census is required to decide whether to adjust the 1990 census on or before July 15, 1991, pursuant to the federal court order in City of New York v. US Department of Commerce, No. 88-CV-2474 (US District Court for the Eastern District of New York). If the Bureau of the Census decides to adjust the 1990 census data, or if it is ordered to adjust by the court, "population" shall be based on the 1990 census data as adjusted by the Bureau. If the Census Bureau decides not to adjust the 1990 census, and is not ordered to adjust by the court, "population" shall be based on the 1990 census data adjusted to reflect the "PES estimates based on data available to date" released by the Bureau of the Census on June 13, 1991: 30,888,000. The Legislature may determine the exact amount of the adjustment following the determination by the Census Bureau pursuant to the federal lawsuit.

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 1991–92 fiscal year ending balance in the Special Fund for Economic Uncertainties, as of July 1, 1991. 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, 1991, 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 1991–92 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 1991–92 fiscal year. These allocations would be made as a result of a state of emergency proclamation by the Governor.

(e) Of the amount appropriated to the Special Fund for Economic Uncertainties, the Director of Finance may allocate amounts as grants or loans to counties or to cities and counties demonstrating difficulties in balancing their budgets for the 1991–92 fiscal year.

(1) To receive funding pursuant to this section, a county or city and county shall clearly demonstrate in an application to the Director of Finance all of the following:

(A) In 1991–92, the county or city and county net county share of costs for state required programs has increased at a faster rate than its general purpose revenue. For the purposes of this determination, "net county costs" includes "county costs of justice programs" as defined in subdivision (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.

(B) The county or city and county has taken corrective action to balance its 1991–92 budget, including reducing expenditure levels and/or seeking revenue increases for the last three years.

(C) It is not reasonably able to balance the county's or city and county's 1991–92 budget without additional state assistance.

(2) Upon receipt of an application for funding pursuant to paragraph (1), 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 30 days. The final decision on a county's or city and county's application shall be made within 60 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 reason for denial.

(3) No allocation shall be made to any county or city and county pursuant to this section 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 Constitution. County budget data submitted to the Controller, insofar as it displays the necessary appropriations limit and budget amounts may be used by the Director of Finance in making this determination.

(4) 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 section, with the rationale therefore, not later than 30 days prior to the allocation of funds.

SEC. 12.32. (a) 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.

(b) 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 1991–92 are Eighteen billion four hundred twenty-two million forty-seven thousand dollars ($18,422,047,000), or 42.1 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for school districts are Sixteen billion six hundred sixty-one million four hundred fifty-five thousand dollars ($16,661,455,000), or 38.076 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for the California Community Colleges are One billion six hundred ninety-five million nine hundred sixteen thousand dollars ($1,695,916,000) or 3.876 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues set aside for other state agencies which provide direct elementary and secondary level education, as defined in Section 41302.5 of the Education Code are Sixty-four million six hundred seventy-six thousand dollars ($64,676,000), or .148 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, 1991, of the appropriations made by Items 0160-001-001 and 8840-001-001 of the Budget Act of 1990 are reappropriated and shall be available for encumbrance until June 30, 1992, for the same programs and purposes for which appropriations for these items have been made by this act.

SEC. 14.00. (a) Notwithstanding any other provision of law, on June 30, 1992, upon order of the Director of Finance, there shall be transferred to the General Fund an amount equal to the excess fees incidentally produced and deposited into each of the following funds:

(1) Accountancy Fund
(2) California State Board of Architectural Examiners Fund
(3) Boxer's Neurological Examination Account
(4) Vehicle Inspection and Repair Fund
(5) State Board of Barber Examiners Fund
(6) Board of Behavioral Science Examiners Fund
(7) Cemetery Fund
(8) Collection Agency Fund
(9) Private Investigator and Adjuster Fund
(10) Contractors License Fund
(11) Board of Cosmetology Contingent Fund
(12) State Dentistry Fund
(13) State Dental Auxiliary Fund
(14) Electronic and Appliance Repair Fund
(15) Bureau of Personnel Services Fund
(16) State Funeral Directors and Embalmers Fund
(17) Geology and Geophysics Fund
(18) Bureau of Home Furnishings and Thermal Insulation Fund
(19) Bureau of Home Furnishings Fund
(20) Dry Cleaning Account
(21) State Board of Landscape Architects' Fund
(22) Contingent Fund of the Medical Board of California
(23) Dispensing Opticians Fund

(24) Acupuncturists Fund
(25) Hearing Aid Dispensers Fund
(26) Physical Therapy Fund
(27) Physician Assistant Fund
(28) Podiatry Fund
(29) Psychology Fund
(30) Respiratory Care Fund
(31) Speech Pathology and Audiology Examining Committee Fund
(32) Nursing Home Administrator's State License Board Fund
(33) State Optometry Fund
(34) Pharmacy Board Contingent Fund
(35) Professional Engineers' and Land Surveyors' Fund
(36) Board of Registered Nursing Fund
(37) Transcript Reimbursement Fund
(38) Shorthand Reporters Fund
(39) Structural Pest Control Research Fund
(40) Structural Pest Control Education and Enforcement Fund
(41) Structural Pest Control Fund
(42) Tax Preparers Fund
(43) Board of Veterinary Examiners' Contingent Fund
(44) Animal Health Technician Examining Committee Fund
(45) Vocational Nurses Account
(46) Psychiatric Technicians Account
(47) State Banking Fund
(48) Real Estate
(49) State Board of Chiropractic Examiners Fund
(50) Board of Osteopathic Examiners Contingent Fund
(51) Board of Pilot Commissioners' Special Fund
(52) Auctioneer Commission Fund

(b) The Department of Finance shall determine the excess fees incidentally produced and the amounts to be transferred, based on expenditures approved in the Budget Act of 1991 and revenues estimated for the 1991–92 fiscal year.

(c) In the case of boards, commissions, or bureaus which do not collect revenues on a continuous basis, the Department of Finance shall ensure a sufficient fund balance so that a fund deficit will not occur. The Director of Consumer Affairs and the Department of Finance may consider the use of loans between specific fund to avoid temporary fund deficits.

(d) Transfers shall not impair any obligation of contract or other encumbrance, or otherwise impede the operations of any regulatory program associated with the fund.

(e) "Excess fees incidentally produced" are those revenues in excess of a three-month reserve for expenditures, based on authorized expenditures for the 1991–92 fiscal year.

(f) Notwithstanding any provision of law, nothing shall prohibit a loan from a special fund under the authority of one board, commission, or bureau to the special fund of another board, commission, or bureau. Any such loan is hereby authorized, but before it is effective, the terms and conditions shall be initiated by the Director of Consumer Affairs and approved by the Director of Finance. Interest shall be computed at the rate accruing to the Pooled Money Investment Account.

SEC. 15.00 The Department of Finance shall include a display in the 1992–93 Governor's Budget that reflects all federal, state and local assistance expenditures for homeless programs in a single item.

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.

HEALTH AND WELFARE

SEC. 22.00. (a) The sum of seven million six hundred seventy-two thousand dollars ($7,672,000) is hereby appropriated from the General Fund for transfer by the Controller, upon order of the Director of Finance, to the State Department of Education and the California Community Colleges for implementation of the Greater Avenues for Independence Act of 1985 (GAIN) pursuant to Chapter 1568, Statutes of 1990.

(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 1991–92 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) the Superintendent of Public Instruction shall certify that school districts and county offices of education operating regional occupational centers or programs 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	$4,600,000
(2) Department of Education	3,200,000
(3) Unallocated trigger reduction	−128,000

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, less any appropriate reduction pursuant to Section 13308 of the Government Code as amended by Chapter 458, Statutes of 1990, 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.

SEC. 23.50. (a) (1) The sum of four hundred eighty-four million ninety-three thousand dollars ($484,093,000) 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, $32,298,000	
(1) Immunizations	242,000
(2) Family Planning	989,000
(3) Adolescent Family Life	99,000
(4) IRCA Subvention	29,595,000
(5) Public Health Administration	1,373,000
(B) Public Assistance, $409,968,000	
(1) General Assistance	1,818,000
(2) Foster Care	2,177,000

(3) AFDC-FG/U	1,645,000
(4) SSI/SSP	36,734,000
(5) Food Stamps (SAWS)	1,546,000
(6) Medi-Cal	153,348,000
(7) California Children's Services	355,000
(8) Medically Indigent Services Program	195,000,000
(9) County Medical Services Program	4,360,000
(9.5) Primary Care Clinics	10,000,000
(10) Department of Social Services Administration	691,000
(11) Department of Health Services Administration	2,144,000
(12) Health and Welfare Agency Administration	150,000
(C) Education, $41,827,000	
(1) Adult Education	40,827,000
(2) State Department of Education and California Community College Chancellor's Office Administration	1,000,000

(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, provided that:

(1) 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, Section 23.50 of the Budget Act of 1989, or Section 23.50 of the Budget Act of 1990 for any category or program in the schedule set forth for appropriation in this item.

(2) 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 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, 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) All SLIAG reimbursable costs shall be identified to ensure that California's allotment of federal SLIAG funds is maximized.

(f) The Health and Welfare Agency and administering departments, including the State Department of Education (SDE), 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) 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.

(h) 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.

(i) (1) Counties which claim SLIAG funds for indigent health services based on the documentation of services provided to newly legalized persons, to the extent SLIAG funds are allowable and to the extent this information is not now available, shall implement 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.

(j) 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 (INS), or to any other agency, without the beneficiary's consent, unless this release is required by state or federal law.

(k) The SDE 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 INS regulations—in accordance with an IRCA Adult Education Services Delivery Plan (AESDP). This plan shall be developed by the SDE in consultation with representatives of the different service provider groups, and shall be provided to the Director of Finance by September 15, 1991. Prior to allocation of any SLIAG funds to the SDE, the AESDP shall be approved by the Director of Finance. The SDE shall submit the AESDP to the Legislature concurrently with the submission to the Director of Finance. The SDE shall also report to the Legislative fiscal committees by December 1, 1991, on how it intends to allocate future funds for educational services to the newly legalized adult population. The criteria shall include, but not be limited to the following:

1. The number of newly legalized adults wanting/needing to continue basic literacy education instruction (below CASAS 215).
2. Region by region service delivery impacts and how geographic accessibility will be maintained.
3. Transition funding options for providers, including community-based organizations, to continue educational services.
4. The amount of education monies needed to serve the newly legalized population once SLIAG funds are no longer available.

(*l*) The AESDP 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) of the preceding paragraph.

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 SDE 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.
9. That the SDE 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 individuals and Special Agricultural Workers (SAW's) served; 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.

(m) The SDE, 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.

(n) (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.

(o) (1) The 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.

(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 1989–90 and 1990–91 enrollment counts.

(B) Additional ESL instruction for pre-1982 individuals and SAW's, who score below 215 on the CASAS test at the discretion of the Superintendent of Public Instruction.

(p) (1) Priority students for ESL and civics instruction are defined as persons who are applicants for permanent residence pursuant to IRCA, who score below a level of 215 on the standardized 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 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 SLIAG program identified by adjustment status pursuant to Sections 210 and 245A of IRCA. 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.

(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) This subdivision shall apply notwithstanding any provision of the Education Code or any other provision of law.

(q) It is the intent of the Legislature that educational service providers encourage individuals scoring above 210 CASAS to take the INS proficiency test before enrolling in adult education classes. The SDE shall notify providers of this policy.

(r) Educational providers receiving SLIAG funds shall report to the SDE, no later than November 1, 1991, the following information by category (pre-1982, SAW, below 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 SDE and the Health and Welfare Agency for making midyear allotment adjustments.

(s) The aggregate allotments made to all participating community colleges pursuant to paragraph (2) of subdivision (o), plus a proportional amount of the funds reserved for the midyear adjustment required by paragraph (1) of subdivision (o), shall be considered a program appropriation, just as if it were separately scheduled under subparagraph (C) of paragraph (2) of subdivision (a). The SDE, 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).

(t) The SDE 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.

(u) If, subsequent to the enactment of the Budget Act of 1991, the Department of Finance determines that there may not be sufficient federal appropriations to fund the programs in this section, it is the intent of the Legislature that funds be allocated in priority as follows:
  (1) To meet the requirements of federal regulations pertaining to IRCA.
  (2) To permit newly legalized persons to meet educational requirements for legal permanent residency.
  (3) To state entitlement programs, including Medi-Cal, SSI/SSP, and AFDC.

(v) To the extent that the federal Fiscal Year 1992 appropriation exceeds the amount necessary to fund the appropriations in this section, it is the intent of the Legislature that the additional funds be allocated in priority as follows:
  (1) General Fund obligations for entitlements.
  (2) Education, up to $13 million.
  (3) Primary care clinics.
  (4) Programs that have previously received SLIAG funds.

EDUCATION

SEC. 24.00. For the 1991–92 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, 1992, to the General Fund.

SEC. 24.30. Notwithstanding any other provision of law, the State Controller, upon order of the Director of Finance, shall transfer rental income received in 1991–92 pursuant to Education Code Section 17789, not to exceed $23 million, from the State School Building Aid Fund 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, 1993, the amount of lottery funds which each entity received and the purposes for which the funds were expended in the 1991–92 fiscal year, including administrative costs and proposed expenditures and purposes for expenditure for the 1992–93 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, 1992, the State Department of Education shall report to the Legislature and the Governor the results of the survey for the 1990–91 fiscal year.

VARIOUS

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 relat-

ing 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 Dependent 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 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.

(d) 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.

(e) The Department of Finance shall provide deficiency bill updates on April 15, May 15, and June 15, 1992, to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations. Additional updates shall be provided by the Department of Finance if requested by the Legislature or as deemed necessary by the Department of Finance.

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 1991–92 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 1992–93 fiscal year shall remain in effect for the period the director may determine in each instance, but in no event after June 30, 1993.

(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, 1992, no moneys in any fund which, by any statute other than a Budget Act, is continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

SEC. 31.00. The appropriations under this act, unless otherwise provided, shall be subject to the provisions of Section 13320 of the Government Code and Article 2.5 (commencing with Section 13332) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code requiring expenditures to be made in accordance with the allotments and other provisions of fiscal year budgets approved by the Department of Finance.

The fiscal year budget shall authorize in 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 $3,171 as of July 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 1991–92 fiscal year shall terminate on June 30, 1992, except for those positions which have been (a) included in the 1992–93 Governor's Budget as proposed new positions, or (b) approved by the Department of Finance and reported to the Legislature after the 1992–93 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 1992–93 fiscal year, provided these positions are shown in the 1993–94 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 1992–93 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 1991–92 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 1992–93 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 indicate in the case of each certificate the code section or section of this act under which the department gave its consent to exceed the particular appropriation.

SEC. 33.00. If any item of appropriation in this act is vetoed, eliminated, or reduced by the Governor under Section 10 of Article IV of the Constitution, while approving portions of this act, such veto, elimination, or reduction shall not affect the other portions of this act, and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act, and as if any reduced item of appropriation had not been reduced.

SEC. 33.50. (a) In addition to any other provision of this act, $7,719,000 is hereby appropriated to the Senate for joint expenses of the Legislature. Of this amount, the Senate Committee on Rules may transfer up to $4,531,000 to the Joint Legislative Audit Committee for support of the Auditor General and up to $3,188,000 to the Joint Legislative Budget Committee for support of the Legislative Analyst.

(b) In addition to any other provision of this act, $10,927,000 is hereby appropriated to the Assembly for joint expenses of the Legislature. Of this amount, the Assembly Committee on Rules may transfer up to $6,415,000 to the Joint Legislative Audit Committee for support of the Auditor General and $4,512,000 to the Joint Legislative Budget Committee for support of the Legislative Analyst.

(c) Any amounts transferred to the Joint Legislative Audit Committee and the Joint Legislative Budget Committee pursuant to subdivisions (a) and (b) are hereby appropriated for the expenses of the Auditor General and Legislative Analyst and are available without regard to fiscal years, to be paid on certification of the chairperson of the committee to which the transfer is made.

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 1991–92 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, 1991. It is therefore necessary that this act go into immediate effect.

INDEX BY BUDGET TITLE

SEC. 99.00. The following provides an index to the appropriations and related provisions of this act, by organization in alphabetical order, with the code number of the affected organization. The organization code is the first four numbers of any item number in this act. For ease of reference, the appropriation items in this act are organized in numerical order, and all of the appropriation items for any one organization are adjacent to one another.

Department	Organization Code
"A"	
Accountancy, Board of	1120
Acupuncture Committee	1400
Administrative Law, Office of	8910
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Aging, Department of	4170
Agricultural Labor Relations Board	8300
Air Resources Board	3400
Alcohol and Drug Programs, Department of	4200
Alcoholic Beverage Control, Department of	2100
Alcoholic Beverage Control Appeals Board	2120
Alternative Energy Source Financing Authority, California	0971
Animal Health Technician Examining Committee	1570
Architectural Examiners, Board of	1130
Arts Council, California	8260
Assembly	0120
Assistance Fund for Enterprise, Business and Industrial Development Corporation, State	2222
Assistance to Counties for Defense of Indigents	8160
Athletic Commission	1140
Attorney Fees, Payment of Specified	9810
Auctioneer Commission, California	8540
Auditor General, Office of the	0155
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"B"	
Banking Department, State	2140
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Department	Organization Code
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Block Grants for Trial Court Funding, State	0450
Boards. See subject (e.g., Air Resources, Control, etc.)	
Boating and Waterways, Department of	3680
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"C"

California/Mexico Affairs, Office of	0580
California-Tahoe Conservancy	3125
Cemetery Board	1180
Certified Shorthand Reporters Board	1520
Child Abuse Prevention, Office of	5180
Child Development Programs Advisory Committee	4220
Chiropractic Examiners, Board of	8500
Citizens Compensation Commission	8385
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
Consumer Services, Division of	1640
Contingencies or Emergencies, Reserve for	9840
Contractors State License Board	1230
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Control, Board of	8700
Controller, State	0840
Corporations, Department of	2180
Corrections, Board of	5430
Corrections, Department of	5240
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Department	Organization Code
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Economic Development, Commission for	8200
Economic Opportunity, Department of	8915
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Electronic and Appliance Repair, Bureau of	1280
Emergency Medical Services Authority	4120
Emergency Services, Office of	0690
Employee Compensation, Augmentation for	9800
Employment Development Department	5100
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Equity Claims of Board of Control and Settlements and Judgements by Department of Justice	9670
Exposition and State Fair, California	8560
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Fair Employment and Housing, Department of	1700
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Forestry and Fire Protection, Department of	3540
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Department	Organization Code
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Governor's Portrait	0720
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Health and Welfare, Secretary for	0530
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Highway Patrol, Department of the California	2720
Home Furnishings, Bureau of	1360
Homicide Trials, Payments to Counties for Costs of	8180
Horse Racing Board, California	8550
Housing and Community Development, Department of	2240
"I"	
Industrial Development Financing Advisory Commission, California	0965
Industrial Relations, Department of	8350
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Integrated Waste Management Board, California	3380
"J"	
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Judges' Retirement Fund, Contributions to	0390
Judiciary	0250
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Department	Organization Code
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Native American Heritage Commission	8280
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Physician's Assistant Examining Committee	1430
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Planning and Research, Office of	0650
Podiatry Examining Committee	1440
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Presley Institute of Corrections Research and Training, Robert	5770
Prison Terms, Board of	5440
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Professional Engineers and Land Surveyors, Board of Registration for	1500
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Public Employees' Retirement System	1900
Public Employment Relations Board	8320
Public Utilities Commission	8660
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Real Estate, Department of	2320
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Department	Organization Code
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Department	Organization Code
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Veterans' Home of California	1970
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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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Youth Authority, Department of the	5460
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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
1.20 Reduction of General Fund Appropriations
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
3.90 Reduction in Employee Compensation
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 Report on Supplemental Language
9.20 Administrative Costs associated with the acquisition of property
9.30 Federal Levy of State Funds
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
12.00 State Appropriations Limit (SAL)
12.30 Special Fund for Economic Uncertainties
12.32 Proposition 98 Funding Guarantee
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14.00 Excess Fees Transfer
15.00 Homeless Programs
18.10 Lease agreements of Department of Recreation and Parks
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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24.30 School Building Rental Income
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26.60 Satellite Wagering Account
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31.00 Budget Act Administrative Procedures
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35.00 Provides that Budget Act is for Usual and Current Expenses
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CHAPTER 119

An act to amend Section 26802.5 of the Government Code, relating to county officers.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 26802.5 of the Government Code is amended to read:

26802.5. In a county of the 11th, 15th, 17th, 22nd, or 36th class, as ascertained and determined by Section 28020, a registrar of voters may be appointed by the board of supervisors in the same manner as other county officers are appointed. In those counties, the county clerk is not ex officio registrar of voters, and the registrar of voters shall discharge all duties vested by law in the county clerk which duties relate to and are a part of the election procedure.

CHAPTER 120

An act to amend Section 227.30 of the Civil Code, relating to adoptions.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 227.30 of the Civil Code is amended to read:

227.30. A stepparent adopting a child of his or her spouse shall be liable for all reasonable costs incurred in connection with the stepparent adoption, including, but not limited to, costs incurred for the investigation required by Section 227.20, up to a maximum of two hundred dollars ($200). The probation officer or county welfare department may defer, waive, or reduce the fee for costs when such a payment would cause economic hardship to the prospective adoptive parent which would be detrimental to the welfare of the adoptive child.

CHAPTER 121

An act to amend Section 26458 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 26458 of the Vehicle Code is amended to read:

26458. (a) The braking system on every motor vehicle used to tow another vehicle shall be so arranged that one control on the towing vehicle shall, when applied, operate all the service brakes on the power unit and combination of vehicles when either or both of the following conditions exist:

(1) The towing vehicle is required to be equipped with power brakes.

(2) The towed vehicle is required to be equipped with brakes and is equipped with power brakes.

(b) Subdivision (a) shall not be construed to prohibit motor vehicles from being equipped with an additional control to be used to operate the brakes on the trailer or trailers.

(c) Subdivision (a) does not apply to any of the following combinations of vehicles, if the combination of vehicles meets the stopping distance requirements of Section 26454:

(1) Vehicles engaged in driveaway-towaway operations.

(2) Disabled vehicles, while being towed.

(3) Towed motor vehicles.

(4) Trailers equipped with inertially controlled brakes which are designed to be applied automatically upon breakaway from the towing vehicle and which are capable of stopping and holding the trailer stationary for not less than 15 minutes.

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 122

An act relating to telephone services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

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

(a) The citizens and businesses of the State of California join with all of America in recognition of and gratitude for the great hardship and sacrifice of America's soldiers.

(b) Many of America's soldiers serving in the Persian Gulf War leave behind family, friends, and loved ones.

(c) The telephone provides an irreplaceable bridge across the world, linking the soldiers with their families and providing them with comfort, solace, and information.

(d) This intercontinental telephone service is expensive with instances of soldiers' telephone bills costing hundreds of dollars, causing a temporary but significant financial burden.

(e) Adding to this burden is the loss of income to many of the soldiers resulting from their service in the Persian Gulf War.

(f) Because we recognize the value of the telephone in maintaining the morale of the soldiers, their facilities, and loved ones, steps should be taken so that the cost of calling does not unduly impede its use.

(g) Though the combat has ceased, the need for relief continues because soldiers remain in the Persian Gulf.

(h) This same principle of humane access to telephone service is applicable to other emergency situations. Steps should be taken to determine whether an assistance program is feasible and desirable in similar emergency situations.

SEC. 2. (a) The Public Utilities Commission shall as expeditiously as possible develop and implement procedures which mitigate the significant additional expense incurred by service men and women in communicating with their families and loved ones during the Persian Gulf War.

(b) These measures shall include, but not be limited to:

(1) Determination of the feasibility of a category of emergency telephone service, which may include payment plans, that can be expeditiously implemented on the commission's own motion in widespread emergency situations such as war or earthquakes. The study shall include recommendations for funding and shall be submitted to the Legislature by January 1, 1992.

(2) Development of a billing and collections program for persons on active military duty outside the United States serving, or having

served, in the Persian Gulf War to permit a payment plan for large telephone bills, to be initiated at the request of the telephone subscriber, and to prohibit involuntary shutoff of telephone service unless the customer acts in bad faith.

(c) The Public Utilities Commission shall also apply to the Federal Communications Commission for the establishment of a special low cost international tariff for calls made by and to soldiers on active military duty outside of the United States, related to the Persian Gulf War.

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 alleviate additional expense for telephone service for active duty military personnel serving in the Persian Gulf, which is significant and represents a current hardship to the soldiers, it is necessary for this act to take effect immediately.

CHAPTER 123

An act to amend Section 44981 of the Education Code, relating to employees.

[Approved by Governor July 20, 1991 Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 44981 of the Education Code is amended to read:

44981. Any days of leave of absence for illness or injury allowed pursuant to Section 44978 may be used by the employee, at his or her election in cases of personal necessity. The governing board of each school district and each office of county superintendent of schools shall adopt rules and regulations requiring and prescribing the manner of proof of personal necessity for purposes of this section.

The employee shall not be required to secure advance permission for leave taken for any of the following reasons:

(1) Death or serious illness of a member of his or her immediate family.

(2) Accident, involving his or her person or property, or the person or property of a member of his or her immediate family.

No such accumulated leave in excess of seven (7) days may be used in any school year for the purposes enumerated in this section unless a maximum number of days in excess of seven (7) is specified for that purpose in an agreement between the exclusive bargaining representative and the district.

CHAPTER 124

An act to amend Section 1916 of the Education Code, and to amend Section 1203m of the Penal Code, relating to youth and adult offender education.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 1916 of the Education Code is amended to read:

1916. (a) For the purposes of the pilot project described in subdivision (a) of Section 1203m of the Penal Code, the chief probation officer of Sacramento County, in collaboration with the county superintendent of schools of that county and other appropriate state and local agencies, including the President of the California State University, Sacramento and the chancellor of each community college in the county, shall do all of the following:

(1) Identify and propose appropriate programs, and develop screening methods and procedures to assist the courts to select those defendants who are most likely to succeed in and benefit from the pilot project. The selection criteria employed for this purpose may include limited reading ability, a low level of educational attainment, or a lack of employment skills.

(2) Propose, in cooperation with the superior and municipal courts of Sacramento County, appropriate minimum standards of academic progress for local youth and adult offender education and crime prevention programs.

(3) Carefully monitor progress, timing, and deadlines.

(4) Delegate and supervise relevant local research, evaluation, correlation, indexing, and review.

(5) Determine how the various entities with whom the chief probation officer collaborates may, individually and collectively, help to promote youth and adult offender education and crime prevention.

(6) Determine what is being done in local, adult, and juvenile

custodial facilities to educate those in custody.

(7) Evaluate the nature and extent of existing library resources, those in construction, and any library resources planned for the future in local juvenile and adult custodial facilities.

(8) Consider the nature and extent of local interagency, multidisciplinary collaboration and cooperation between public and private agencies and organizations and custodial facilities, and between those local agencies and organizations, and parallel entities at the state level.

(9) Determine appropriate standards to conduct the evaluations provided for by this subdivision.

(10) Work with professional, business, and labor organizations to develop employment opportunities for youth and adult offenders who have completed their conditions of probation in a successful and timely manner, including, but not limited to, those conditions applicable pursuant to Section 1203m of the Penal Code.

(11) Expand on the issues set forth in this subdivision so as to include all appropriate, related issues.

(b) The county office of education shall contract with a qualified institution of higher education for the evaluation of the pilot project, which evaluation shall be updated as required for purposes of subdivision (c). For the purposes of that evaluation, the county superintendent of schools, with the assistance of the chief probation officer, shall maintain, and provide to that institution, data regarding the participants in the pilot project that includes, but is not limited to, the following: achievement of learning objectives; avoidance of additional criminal activity; violations of conditions of probation; success in securing gainful employment; wage levels prior to, and after, participation in the pilot project; attendance, subsequent to completion of participation in the pilot project, in literacy or educational programs; and independence from public assistance. In addition to the issues described in this paragraph, the evaluation shall contain a cost-benefit analysis of the public moneys saved as a result of participation in the pilot project, as compared to public costs that would otherwise be incurred based on the likelihood of subsequent criminal activity on the part of the offender. The pilot project shall be deemed to be successful if both of the following conditions are met:

(1) There is an improvement of at least 75 percent in the rate at which participants avoid additional criminal activity during their participation in the project, as compared to the rate that would otherwise be expected of those specific participants as a group.

(2) The participants progress, on average, at least two grade levels for each year of instruction under the project, as adjusted proportionately for any participation of less than one year.

(c) No later than March 31, 1991, the institution of higher education shall prepare and publish a formal, written report on the findings under subdivision (a) and the results of the evaluation conducted pursuant to subdivision (b). No later than March 31, 1992,

and, again, no later than March 31, 1993, the institution of higher education shall prepare and publish a followup report, which shall contain updated results of the evaluation conducted pursuant to subdivision (b), and should include recommendations for the improvement, expansion, and funding of education programs and libraries pursuant to the purposes of this section.

SEC. 2. Section 1203m of the Penal Code is amended to read:

1203m. (a) In each of the 1990, 1991, and 1992 calendar years, up to 200 criminal defendants between the ages of 18 and 30 years, inclusive, who are sentenced in the Superior Court of Sacramento County, and up to 200 criminal defendants of that age who are sentenced in the Municipal Court of Sacramento County may be required, as a condition of probation, to enroll, and to maintain reasonable progress, in public or private literacy or other educational programs designated by the court. The programs designated for this purpose may be operated in any school district, community college district, or private school, and shall be designed and operated to assist in the improvement of reading, writing, speaking, and calculating skills, to increase the number and quality of employment opportunities, and to reduce the likelihood of criminal behavior, so as to reduce the public and private costs, both direct and indirect, of criminal misconduct. Each probationer may be required, pursuant to this requirement, to complete up to 200 hours of instruction over a period of one year.

(b) Any school district or community college district in which any probationer enrolls pursuant to this section shall be entitled, as a result, to state funding calculated in accordance with average daily attendance computations as set forth in the Education Code. Any probationer who enrolls in a private school pursuant to this section shall pay the enrollment costs for that program.

(c) For purposes of this section, the first calendar year shall commence on January 1, 1990. Thereafter, each subsequent calendar year shall commence one year from the first day of the prior calendar year.

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

CHAPTER 125

An act to amend Section 51284 of the Government Code, relating to agricultural land.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 51284 of the Government Code is amended to read:

51284. No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, notice of the hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the city or county shall publish a notice of its decision, including the date, time, and place of the public hearing, a general explanation of the decision, the findings made pursuant to Section 51282, and a general description, in text or by diagram, of the land under contract, as a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city or county. In addition, within 30 days of the tentative cancellation of the contract, the city or county shall deliver a copy of the published notice of the decision, as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings.

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 126

An act to amend Sections 63.6, 71.2, 655.2, and 660 of, and to amend and renumber Sections 675, 676, and 677 of, the Harbors and Navigation Code, relating to harbors and navigation.

[Approved by Governor July 20, 1991 Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 63.6 of the Harbors and Navigation Code is amended to read:

63.6. (a) (1) On or before the 15th day of January of each odd-numbered year, the director shall make a report to the commission, the Legislature, and the Governor covering the operations of the department for the preceding biennium.

(2) With respect to Article 5 (commencing with Section 76), the report shall include all of the following:

(A) The total amount of loans made in each of the two fiscal years immediately preceding the preparation and submission of the report.

(B) For each recipient of a loan during each of the two fiscal years immediately preceding the preparation and submission of the report, the recipient's name, the location of the marina for which the loan was made, and the amount of the loan.

(C) The financial status of each loan.

(D) Any legislative recommendations.

(3) The report shall also include the status of the department's activities related to the monitoring of rates pursuant to Section 71.4, and subdivision (d) of Section 76.7.

(b) The department shall also make any special reports that are requested by the Secretary of the Resources Agency or the Governor.

SEC. 2. Section 71.2 of the Harbors and Navigation Code is amended to read:

71.2. The department shall protect small craft harbors under its jurisdiction from damage and preserve the peace therein. The director and the employees of the department that the director designates have the authority and powers conferred by law upon peace officers listed in Section 830.33 of the Penal Code for those harbors. The department may adopt rules and regulations that may be necessary for the purposes of this section. A violation of those rules or regulations is a misdemeanor.

SEC. 3. Section 655.2 of the Harbors and Navigation Code is amended to read:

655.2. (a) Every owner, operator, or person in command of any vessel propelled by machinery is guilty of a misdemeanor who uses it, or permits it to be used, at a speed in excess of five miles per hour

in any portion of the following areas not otherwise regulated by local rules and regulations:

(1) Within 100 feet of any person who is engaged in the act of bathing. A person engaged in the sport of water skiing shall not be considered as engaged in the act of bathing for the purposes of this section.

(2) Within 200 feet of any of the following:

(A) A beach frequented by bathers.

(B) A swimming float, diving platform, or lifeline.

(C) A way or landing float to which boats are made fast or which is being used for the embarkation or discharge of passengers.

(b) This section does not apply to vessels engaged in direct law enforcement activities which are displaying the lights prescribed by Section 652.5. Those vessels are also exempt from any locally imposed speed regulation adopted pursuant to Section 660.

SEC. 4. Section 660 of the Harbors and Navigation Code is amended to read:

660. (a) Any ordinance, law, regulation, or rule relating to vessels, which is adopted pursuant to provisions of law other than this chapter by any entity other than the department, including but not limited to any county, city, port authority, district, or any state agency other than the department shall, notwithstanding any other provision of law, pertain only to time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control, and the measure shall not conflict with this chapter or the regulations adopted by the department. Except as provided in subdivision (c), any measure relating to boats or vessels adopted by any governmental entity other than the department shall be submitted to the department prior to adoption and at least 30 days prior to the effective date thereof.

(b) The department may make special rules and regulations governing the use of boats or vessels on any body of water within the territorial limits of two or more counties, cities, or other political subdivisions if no special rules or regulations exist or if the department determines that the local laws regulating the use of boats or vessels on that body of water is not uniform and that uniformity is practicable and necessary.

(c) (1) Any entity, including but not limited to any county, city, port authority, district, or state agency, otherwise authorized by law to adopt measures governing the use and equipment, and matters relating thereto, of boats or vessels, may adopt emergency rules and regulations which are not in conflict with the general laws of the state relating to boats and vessels using any waters within the jurisdiction of the entity if those emergency rules and regulations are required to insure the safety of persons and property because of disaster or other public calamity.

(2) The emergency rules and regulations adopted under paragraph (1) shall become effective immediately upon adoption and may remain in effect for not to exceed 60 days thereafter. The

emergency rules and regulations shall be submitted to the department on or before their adoption.

(3) After submission of emergency rules and regulations adopted pursuant to paragraph (1) to the department, the department may authorize the adopting entity to make the emergency rules and regulations effective for the period of time greater than 60 days that is necessary in view of the disaster or circumstances.

SEC. 5. Section 675 of the Harbors and Navigation Code is amended and renumbered to read:

523. (a) Any peace officer, as described in Section 663, any employee or officer of the State Lands Commission designated by the State Lands Commission, or any lifeguard or marine safety officer employed by a county, city, or district while engaged in the performance of official duties, may remove a vessel from a public waterway under any of the following circumstances:

(1) When the vessel is left unattended and is moored, docked, beached, or made fast to land in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other vessels using the waterway, to public safety, or to the property of another.

(2) When the vessel is found upon a waterway and report has previously been made that the vessel has been stolen or complaint has been filed and a warrant thereon issued charging that the vessel has been embezzled.

(3) When the person or persons in charge of the vessel are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(4) When an officer arrests any person operating or in control of the vessel for an alleged offense, and the officer is, by any provision of this code or other statute, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(5) When the vessel seriously interferes with, or otherwise poses a critical and immediate danger to navigation or to the public health, safety, or welfare.

(b) Costs incurred by a public entity pursuant to removal of vessels under subdivision (a) may be recovered through appropriate action in the courts of this state.

SEC. 6. Section 676 of the Harbors and Navigation Code is amended and renumbered to read:

524. (a) Any peace officer, as described in Section 663, may remove a vessel from private property when the vessel is found on, or attached to, private property and a report has previously been made that the vessel has been stolen or a complaint has been filed and a warrant thereon issued charging that the vessel has been embezzled.

(b) Any peace officer, as described in Section 663, may, after a reasonable period of time, remove a vessel from private property if the vessel has been involved in, and left at, the scene of a boating

accident and no owner is available to grant permission to remove the vessel. This subdivision does not authorize the removal of a vessel if the owner has been contacted and has refused to grant permission to remove the vessel.

(c) Nothing in this section is intended to expand the territorial jurisdiction of peace officers beyond the provisions of Sections 830.1 and 830.2 of the Penal Code.

SEC. 7. Section 677 of the Harbors and Navigation Code is amended and renumbered to read:

525. (a) Except for urgent and immediate concern for the safety of those aboard a vessel, no person shall abandon a vessel upon a public waterway or public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(b) The abandonment of any vessel in a manner as provided in subdivision (a) is prima facie evidence that the last registered owner of record, not having notified the appropriate registration or documenting agency of any relinquishment of title or interest therein, is responsible for the abandonment and is thereby liable for the cost of removal and disposition of the vessel.

(c) Violation of this section is an infraction and shall be punished by a fine of not less than fifty dollars ($50).

CHAPTER 127

An act to add Section 90407 to the Education Code, relating to postsecondary education.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 90407 is added to the Education Code, to read:

90407. (a) Commencing July 1, 1992, the trustees shall succeed to the powers, duties, and functions of the Department of Food and Agriculture with respect to a Dairy Products Technology Center at California Polytechnic State University, San Luis Obispo, which was authorized by Section 2 of Chapter 1514 of the Statutes of 1986.

(b) No funds appropriated by any act from the General Fund for expenditure during any fiscal year on behalf of the Dairy Products Technology Center may be encumbered unless and until the trustees determine that at least two hundred thousand dollars ($200,000), or an amount equal to the General Fund appropriation, whichever is greater, has been received from nonstate sources by California Polytechnic State University, San Luis Obispo, for the operation of the Dairy Products Technology Center for that fiscal year.

CHAPTER 128

An act to amend Section 3584.2 of the Public Utilities Code, relating to highway carriers.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 3584.2 of the Public Utilities Code is amended to read:

3584.2. The commission shall issue a permit to operate as a seasonal agricultural carrier or a seasonal livestock carrier to any applicant for seasonal authority. A seasonal permit shall authorize only the transportation of unprocessed agricultural commodities, including livestock. A seasonal permit shall be issued for a period not to exceed six calendar months, and may be renewed once for a period not to exceed three calendar months in any calendar year.

CHAPTER 129

An act to amend Section 802 of the Penal Code, relating to child molestation.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 802 of the Penal Code is amended to read:

802. (a) Except as provided in subdivision (b), prosecution for an offense not punishable by death or imprisonment in the state prison shall be commenced within one year after commission of the offense.

(b) Prosecution for a misdemeanor violation of Section 647.6 or former Section 647a, committed with or upon a minor under the age of 14 years shall be commenced within two years after commission of the offense.

CHAPTER 130

An act to amend Section 82048.7 of the Government Code, relating to elections.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 82048.7 of the Government Code is amended to read:

82048.7. (a) "Sponsored committee" means a committee, other than a candidate controlled committee, which has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives 80 percent or more of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

SEC. 2. 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 131

An act to amend Section 1799.101 of the Civil Code, relating to consumer credit contracts.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 1799.101 of the Civil Code is amended to read:

1799.101. (a) For the purposes of this section, the following terms are defined as follows:

(1) "Adverse information" means information directly or indirectly indicating that a delinquency has occurred, because a

cosigner has not complied with the contractual provisions of a consumer credit contract.

(2) "Collection action" means requesting a cosigner to pay all or part of the obligation on a consumer credit contract.

(3) "Cosigner" means a natural person, other than the primary obligor or the spouse of the primary obligor, who renders himself or herself liable for the obligation on a consumer credit contract without compensation. The term includes a person whose signature is requested by a creditor as a condition to granting credit to another person. A person who does not receive goods, services, or money in return for executing a consumer credit contract does not receive compensation within the meaning of this section. "Cosigner" does not include a joint applicant for open-end credit pursuant to subdivision (c) of Section 1799.91. A person is a cosigner within the meaning of this section whether or not he or she is designated as such on a consumer credit contract or other document creating the consumer credit contract obligation for the cosigner.

(4) "Delinquency" means a failure to make timely payment to the creditor of all or a portion of any installment under a consumer credit contract.

(5) "Notice" means a writing which describes, recites, or otherwise refers to a delinquency.

(6) "Obligation" means an indebtedness incurred by an individual for personal, family, or household purposes.

(7) "Person" means an individual, firm, partnership, association, or corporation.

(8) "Primary obligor" means one or more persons, other than a cosigner, who sign a consumer credit contract and assume an obligation as debtor under that contract.

(b) Except as provided in subdivisions (d) and (e), no creditor shall provide any adverse information with respect to any cosigner, to a consumer credit reporting agency regarding a delinquency on a consumer credit contract entered into on or after July 1, 1992, unless, at or before the time the information is provided to the consumer credit reporting agency, written notice of the delinquency is provided to the cosigner.

(c) No creditor shall provide any information regarding the cosigner's obligation on a consumer credit contract to a debt collector, as defined in subdivision (c) of Section 1788.2, until notice has been provided to the cosigner under subdivision (b).

(d) The notice requirements of subdivisions (b) and (c) do not apply to any cosigner whose address, as shown in the creditor's records respecting the consumer credit contract, is the same as the primary obligor.

(e) The notice requirements of subdivisions (b) and (c) shall be satisfied by mailing a copy of the required notice to the cosigner at the cosigner's address, as shown in the creditor's records respecting the consumer credit contract. However, if more than one cosigner reside at the same address, as shown in the creditor's records

respecting the consumer credit contract, a notice addressed to any cosigner at that address shall be deemed notice to all the cosigners residing at that address.

(f) Nothing in this section shall require any particular form or language with respect to a notice of delinquency sent to either a primary obligor or cosigner.

(g) Within a reasonable time after a creditor has reported to a credit reporting agency that a delinquency or delinquencies that have been reported to the consumer credit reporting agency and included in the cosigner's file maintained by the consumer credit reporting agency have been cured, the consumer credit reporting agency shall indicate in the file that the payment was made.

(h) Nothing in this section shall be construed to require notice of a delinquency to be provided to a cosigner in any instance not expressly specified in this section, or to provide notice to persons other than cosigners.

(i) This section shall become operative on July 1, 1992.

CHAPTER 132

An act to amend Sections 11165.7 and 11166.5 of the Penal Code, relating to child abuse reporting.

[Approved by Governor July 20, 1991 Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "child care custodian" means a teacher; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; an administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; an administrator or employee of a public or private youth center, youth recreation program, or youth organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children; a licensee, an administrator, or an employee of a licensed community care or child day care facility; a headstart teacher; a licensing worker or licensing evaluator; a public assistance worker; an employee of a child care institution including, but not limited to,

foster parents, group home personnel, and personnel of residential care facilities; a social worker , probation officer, or parole officer; an employee of a school district police or security department; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(c) School districts which do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(d) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

SEC. 2. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; administrators and employees of public or private youth centers, youth recreation programs, or youth organizations; administrators and employees of public or private organizations whose duties require direct contact

and supervision of children and who have been trained in the duties imposed by this article; licensees, administrators, and employees of licensed community care or child day care facilities; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; social workers, probation officers, or parole officers; employees of a school district police or security department; or any person who is an administrator or a presenter of, or a counselor in, a child abuse prevention program in any public or private school.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family, and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family, and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies, public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars ($1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed

on all application forms for a license or certificate printed on or after January 1, 1986.

SEC. 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 133

An act to amend Sections 116.220, 116.370, 116.610, and 116.770 of the Code of Civil Procedure, relating to small claims court.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivision (c), for recovery of money, if the amount of the demand does not exceed five thousand dollars ($5,000).

(2) Except as provided in subdivision (c), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars ($5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Section 1861.5 of the Civil Code if the amount of the demand does not exceed five thousand dollars ($5,000).

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to,

money damages.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed one thousand five hundred dollars ($1,500).

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

SEC. 2. Section 116.370 of the Code of Civil Procedure is amended to read:

116.370. (a) Venue in small claims court actions shall be the same as in other civil actions.

(b) A defendant may challenge venue by writing to the court, without personally appearing at the hearing.

(c) In all cases, including those in which the defendant does not either challenge venue or appear at the hearing, the court shall inquire into the facts sufficiently to determine whether venue is proper, and shall make its determination accordingly.

(d) If the court determines that the action was not commenced in the proper venue, the court, on its own motion, shall dismiss the action without prejudice unless all defendants are present and agree that the action may be heard.

SEC. 3. Section 116.610 of the Code of Civil Procedure is amended to read:

116.610. (a) The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limit stated in Section 116.220, and may make such orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.

(b) The court may, at its discretion or on request of any party, continue the matter to a later date in order to permit the parties to attempt resolution by informal or alternative means.

(c) The judgment shall include a determination whether the judgment resulted from a motor vehicle accident on a California highway caused by the defendant's operation of a motor vehicle.

(d) In an action against several defendants, the court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper.

(e) The prevailing party is entitled to the costs of the action, including the costs of serving the order for the appearance of the defendant.

(f) When the court renders judgment, the clerk shall promptly mail notice of entry of the judgment to the parties.

(g) The notice of entry of judgment shall be on a form approved or adopted by the Judicial Council.

SEC. 4. Section 116.770 of the Code of Civil Procedure is amended to read:

116.770. (a) On appeal to the superior court, the claims of all parties shall be heard anew.

(b) The hearing on an appeal to the superior court shall be conducted informally, no party has a right to a trial by jury, and no tentative decision or statement of decision is required.

(c) Article 5 (commencing with Section 116.510) on hearings in the small claims court applies in hearings on appeal in the superior court, except that attorneys may participate.

(d) The superior court shall hear anew the claims against all defendants who are parties to the small claims action at the time any one of them files a notice of appeal. The superior court shall also rehear the claim of a defendant which was heard in the small claims court.

(e) The clerk of the superior court shall schedule the hearing for the earliest available time and shall mail written notice of the hearing to the parties at least 14 days prior to the time set for the hearing.

(f) The Judicial Council may prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed.

CHAPTER 134

An act to amend Section 786 of the Public Utilities Code, relating to telephones.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 786 of the Public Utilities Code is amended to read:

786. (a) On or before March 1, 1984, and annually thereafter, every telephone corporation operating within a service area shall issue to each of its residential subscribers, in a manner and form approved by the commission, a listing of the residential telephone services it provides, the rates or charges for those services, and the state or federal regulatory agency or agencies responsible for regulation of those services.

(b) On or before March 1, 1988, and annually thereafter, every telephone corporation operating within a service area providing public telephone service shall provide to each of its residential subscribers, in a manner and form approved by the commission, a description of that public telephone service and the telephone corporation's policies for providing that service, which shall include policies of public need and safety. The description shall also specify how a customer or subscriber can contact the telephone corporation by telephone or mail, or both, for additional information concerning

these public telephone policies or for assistance regarding a specific public telephone. The commission shall require that this information be published separately from, but transmitted to subscribers together with, the information specified in subdivision (a).

This subdivision does not apply to any corporation or person which owns or operates coin-activated telephone equipment available for public use but which is not a telephone corporation.

(c) Every charge imposed on business or residential telephone subscribers in response to rules or regulations of the Federal Communications Commission shall be shown separately from other charges on a subscriber's billing statement. Every telephone corporation operating within a service area shall do either of the following:

(1) Identify these charges, by asterisk or other means, with the following phrase:

THIS CHARGE IS (or THESE CHARGES ARE) IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

(2) Include in the subscriber's billing statement a listing of the total charges imposed pursuant to tariff of the Federal Communications Commission identified with the following phrase:

TOTAL CHARGES IMPOSED BY ACTION OF THE FEDERAL COMMUNICATIONS COMMISSION.

The billing statement shall also provide the address and telephone number of the Federal Communications Commission to which inquiries may be directed.

(d) The commission shall, by rule or order, specify methods for compliance with this section, which shall include all of the following:

(1) An explanation of the configuration of telecommunications services in California following implementation of the final decision of the United States District Court for the District of Columbia circuit in the case of United States v. American Telephone and Telegraph Company (552 F. Supp. 131) decided on August 19, 1982, and the names, addresses, and telephone numbers of the regulatory agencies responsible for the regulation of intrastate and interstate telephone service.

(2) A general description of the services provided by the telephone corporation or telecommunications provider issuing the explanation, how those services may be obtained, and a notice that other providers are available.

(3) A description of billing charges which may appear on the telephone corporation's or the telecommunications provider's billing statements.

(4) Procedures the subscribers, including subscribers equipped with telephone devices for the handicapped, may follow to protest items billed to the subscriber, and how to contact the telephone corporation or the telecommunications provider concerning those charges.

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 135

An act to amend Section 229.50 of the Civil Code, relating to adoptions.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 229.50 of the Civil Code is amended to read:

229.50. Notwithstanding any other provision of law, if an adult adoptee and his or her birth parent have each filed a written consent with the department or the licensed agency, the department or licensed agency may arrange for contact between those persons. Neither the department nor a licensed adoption agency shall solicit, directly or indirectly, the execution of such a written consent.

The written consent authorized by this section shall be in the form prescribed by the department.

CHAPTER 136

An act to add Section 44043.5 to the Education Code, relating to education.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 44043.5 is added to the Education Code, to read:

44043.5. The governing board of a school district or county office of education may establish a catastrophic leave program to permit employees of that district or county office to donate eligible leave credits to an employee when that employee or a member of his or her family suffers from a catastrophic illness or injury.

(a) For the purposes of this section the following terms are defined as follows:

(1) "Catastrophic illness" or "injury" means an illness or injury that is expected to incapacitate the employee for an extended period of time, or that incapacitates a member of the employee's family which incapacity requires the employee to take time off from work for an extended period of time to care for that family member, and taking extended time off work creates a financial hardship for the employee because he or she has exhausted all of his or her sick leave and other paid time off.

(2) "Eligible leave credits" means vacation leave and sick leave accrued to the donating employee.

(b) Eligible leave credits may be donated to an employee for a catastrophic illness or injury if all of the following requirements are met:

(1) The employee who is, or whose family member is, suffering from a catastrophic illness or injury requests that eligible leave credits be donated and provides verification of catastrophic injury or illness as required by the school district or county office in which he or she is employed.

(2) The school district or county office determines that the employee is unable to work due to the employee's or his or her family member's catastrophic illness or injury.

(3) The employee has exhausted all accrued paid leave credits.

(c) If the transfer of eligible leave credits is approved by the school district or county office, any employee may, upon written notice to the district or county office, donate eligible leave credits at a minimum of eight hours, and in hour increments thereafter.

(d) A school district or county office providing a catastrophic leave program pursuant to this section shall adopt rules and regulations for the administration of this section, including, but not limited to, the following:

(1) The maximum amount of time that donated leave credits may be used for, but not to exceed use for a maximum period of 12 consecutive months.

(2) The verification of catastrophic injury or illness required pursuant to paragraph (1) of subdivision (c).

(3) Making all transfers of eligible leave credit irrevocable.

(e) An employee who receives paid leave pursuant to this section shall use any leave credits that he or she continues to accrue on a monthly basis prior to receiving paid leave pursuant to this section.

(f) Notwithstanding the provisions of this section, a school district or county office and an exclusive bargaining representative of employees in that district or county may agree to include in any collective bargaining agreement, a provision setting forth requirements for a catastrophic leave program.

CHAPTER 137

An act to amend Section 903 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) A parent of a minor, the estate of a parent, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile court. However, a county shall not levy charges for the costs of support of a minor detained pursuant to Section 625 unless, at the detention hearing, the juvenile court determines that detention of the minor should be continued, the petition for the offense for which the minor is detained is subsequently sustained, or the minor agrees to a program of supervision pursuant to Section 654. The liability of these persons and estates shall be a joint and several liability.

(b) It shall be the responsibility of a county to demonstrate to any person against whom it seeks to enforce the liability established by this section, that the charges it seeks to impose are limited to the reasonable costs of support of the minor and that these charges exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. Except in those placements of a minor in which an AFDC-FC grant is made, the county shall separately itemize the cost of each major component, such as food, clothing, and medical expense, contained within the costs of support of the minor, for any person against whom the county seeks to impose liability under this section. An AFDC-FC grant shall be considered a separate, indivisible component item of the cost of support of a minor. Nothing in this section shall preclude the district attorney from seeking reimbursement of AFDC-FC costs pursuant to Section 11350.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income. Except in those placements of a minor in which an AFDC-FC grant

is made, and except as provided in paragraphs (1), (2), and (3), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

(2) No cost for medical expenses shall be imposed by the county until the county has first exhausted any eligibility the minor may have under private insurance coverage, standard or medically indigent Medi-Cal coverage, and the Robert W. Crown California Children's Services Act (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

(3) In calculating the cost of medical expenses, the county shall not charge in excess of 100 percent of the AFDC fee for service average Medi-Cal payment for that county for that fiscal year as calculated by the State Department of Health Services; however, if a minor has extraordinary medical or dental costs that are not met under any of the coverages listed in paragraph (2), the county may impose these additional costs.

CHAPTER 138

An act to add Section 19775.15 to the Government Code, and to amend Section 395.07 of the Military and Veterans Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991 Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 19775.15 is added to the Government Code, to read:

19775.15. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, an employee who, as a member of the California National Guard or a United States military reserve organization, is called into active duty as a result of the Iraq-Kuwait crisis on or after August 2, 1990, shall have the benefits provided for in subdivision (b).

(b) Any employee to which subdivision (a) applies, while on active duty, shall, with respect to active duty served on or after August 2, 1990, receive from the state, for a period not to exceed 180 calendar days, as part of his or her compensation both of the

following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a state employee as determined by the Department of Personnel Administration, including any merit raises which would otherwise have been granted during the time the individual was on active duty.

(2) All benefits which he or she would have received had he or she not been called to active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not return to state service within 60 days of being released from active duty shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775.

(d) This section shall not apply to any active duty served voluntarily after the close of the Iraq-Kuwait crisis.

SEC. 2. Section 395.07 of the Military and Veterans Code is amended to read:

395.07. (a) In addition to the benefits provided pursuant to Sections 395.01 and 395.02, any officer or employee of the legislative, executive, or judicial department of the state, who, as a member of the California National Guard or a United States Military Reserve organization, is called into active duty as a result of the Iraq-Kuwait crisis on or after August 2, 1990, shall have the benefits provided for in subdivision (b).

(b) Any officer or employee to which subdivision (a) applies, while on active duty, shall, with respect to active duty served on or after August 2, 1990, receive from the state, for a period not to exceed 180 calendar days, as part of his or her compensation, both of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the officer or employee would have received as a state officer or employee, including any merit raises which would otherwise have been granted during the time the individual was on active duty.

(2) All benefits which he or she would have received had he or she not been called to active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not return to state service within 60 days of being released from active duty shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 395.02.

(d) This section shall not apply to any active duty served voluntarily after the close of the Iraq-Kuwait crisis.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state employees who have been called to active duty due to the Iraq-Kuwait crisis are provided with compensation for time served prior to January 1, 1991, it is necessary that this act go into immediate effect.

CHAPTER 139

An act to amend Sections 19549.10 and 19615 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 19549.10 of the Business and Professions Code is amended to read:

19549.10. (a) Notwithstanding Section 19414.5, the board may allocate racing weeks of four racing days to any association conducting quarter horse racing in the northern zone, if the association and the organization representing the horsemen agree to the allocation.

(b) Notwithstanding Section 19414.5, the board may allocate racing weeks of four racing days to any association conducting quarter horse racing in the central and southern zones during either, or both, of the weeks from Monday to Sunday, inclusive, on which December 25 and January 1 occur in any year, if the association and the organization representing the horsemen agree to the allocation.

SEC. 2. Section 19615 of the Business and Professions Code is amended to read:

19615. (a) The board shall provide a method for estimating the aggregate handle for each association's proposed race meeting. Estimates may be revised during the course of the meeting. Based upon the estimate, each association shall pay its license fee weekly, and purses shall be reasonably allocated over the period of the association's anticipated race meeting pursuant to a purse program developed by the association in consultation with the horsemen's organization contracting with the association with respect to the conduct of racing meetings subject to approval of the board.

(b) Within seven days after the close of a race meeting, an association shall pay any license fee theretofore unpaid, or shall have refunded to it any excess license fee theretofore paid.

(c) If, at the close of a thoroughbred racing meeting, it is determined that the association conducting the meeting has not made payments to or for the benefit of owners and breeders of horses

in an amount equaling the percentages set forth in this chapter, any excess shall be deducted from, and any deficiency not in excess of an amount agreed upon between the association and the horsemen's organization contracting with the association with respect to the conduct of racing meetings shall be added to, the amount the association is required to pay to or for the benefit of owners and breeders of horses at its racing meeting in the following calendar year. Any deficiency in excess of the amount agreed upon shall be distributed as provided in the agreement.

(d) If, at the close of any other racing meeting, it is determined that the association conducting the meeting has not made payments to or for the benefit of owners and breeders of horses in an amount equaling the percentages set forth in this chapter, any excess shall be deducted from, and any deficiency shall be added to, the amount the association is required to pay to or for the benefit of owners and breeders of horses at its racing meeting in the following calendar year.

(e) Any two associations conducting a meeting pursuant to Section 19612 or 19612.6 may, with the approval of the board, combine their excesses or deficiencies from prior meetings if the associations and the organizations representing the horsemen all agree.

(f) Any associations conducting a harness meeting in the northern zone, including an association conducting any meeting pursuant to Section 19549.3, may, with the approval of the board, combine their excesses or deficiencies from prior meetings if the associations and the organizations representing horsemen all agree.

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

In order to ensure viable quarter horse, harness, and Arabian racing meetings during the summer and fall of 1991 and in order to preserve night racing in this state, it is necessary that this act take effect immediately.

CHAPTER 140

An act to amend Sections 21671.5 and 21675.1 of the Public Utilities Code, relating to airports, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 21671.5 of the Public Utilities Code is amended to read:

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission which has not adopted the comprehensive land use plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary

to comply with this article until June 30, 1992, and, if the land use plans are complete by that date, may continue charging fees after June 30, 1992. If the land use plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

SEC. 2. Section 21675.1 of the Public Utilities Code is amended to read:

21675.1. (a) By June 30, 1991, each commission shall adopt the comprehensive land use plan required pursuant to Section 21675, except that any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, shall adopt that plan on or before June 30, 1992.

(b) Until a commission adopts a comprehensive land use plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land which will be included or reasonably could be included within the plan. If the commission has not designated a study area for the plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's

or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations which exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

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 extend, in a timely manner, the date for compliance with the requirement for adoption of a comprehensive land use plan for land surrounding airports in counties with a high number of public use airports, it is necessary that this act take immediate effect.

CHAPTER 141

An act to add Sections 66015 and 66161.5 to the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991 Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 66015 is added to the Education Code, to read:

It is the intent of the Governor and the Legislature, in cooperation with the Trustees of the California State University, to do both of the following:

(a) Place a major priority on resolving the serious problem of impacted and overcrowded classes, not only with respect to the California State University, but throughout public postsecondary education.

(b) Ensure that needy students receive financial aid sufficient to cover the cost of fee increases for the 1991–92 academic year. The Trustees of the California State University shall provide to the Legislature and the Governor, by January 1, 1992, documentation verifying the extent to which this provision has been satisfied.

SEC. 2. Section 66161.5 is added to the Education Code, to read:

66161.5. For the 1991–92 academic year, notwithstanding Sections 66156, 66158, 66160, and 66161, the Trustees of the California

State University are authorized to increase fees by an amount not to exceed 20 percent of the fee fixed for the prior academic year. The amount of the fee increase in excess of 10 percent of the fee fixed for the 1990–91 academic year shall be considered a surcharge for the 1991–92 academic year and shall not be included in the base fee for the 1992–93 academic year. However, the amount of the fee increase up to and including 10 percent of the fee fixed for the 1990–91 academic year shall be included in the base fee level for the 1992–93 academic year, and each academic year thereafter.

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

Due to the unprecedented shortfall in state revenues, and the need to provide notice to students of a special one-time surcharge, it is necessary that this act take effect immediately.

CHAPTER 142

An act to amend Section 14070 of the Corporations Code, relating to small business.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 14070 of the Corporations Code is amended to read:

14070. (a) The corporate guarantee shall be backed by funds on deposit in the corporation's corporate fund established pursuant to Section 14040.

(b) Loan guarantees shall be secured by a reserve of at least 25 percent to be determined by the executive director with the approval of the board. The guarantee percentage rate shall be set by the executive director upon approval of the board.

(c) The corporation shall guarantee loans wherever possible. However, earnings from the trust funds may be used for direct lending provided that corporate direct loan funds do not constitute more than one-third of the loan.

Any corporation located in a rural area that is making a direct loan to a farmer or farm corporation is exempt from the one-third limitation and may use trust funds from both the income and trust account, provided that the direct loan is guaranteed or that at least 50 percent of the direct loan portfolio is guaranteed by a governmental agency, excluding any state government agency. The total trust funds committed by a corporation shall not exceed 50 percent of the trust fund, including trust income, as determined at

the time each loan is made. Only unencumbered funds shall be available for direct lending. Each corporation located in a rural area shall submit an application to the department for participation in the direct loan program under this section. In its capacity as a direct lender, the corporation may sell in the secondary market the guaranteed portion of each loan so as to raise additional funds for direct lending. Funds raised through the secondary market, and funds repaid by the borrower and ineligible for reborrowing shall not be considered in determining the maximum drawings of trust funds by a corporation. Any direct loan made by a corporation under this section shall not exceed three hundred fifty thousand dollars ($350,000). The department, in consultation with the board, shall issue regulations governing these direct loans.

(d) In furtherance of the purposes of this part, up to one-half of the corporate funds may be used to guarantee loans utilized to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code.

(e) To execute the direct loan programs established in this chapter, the Office of Small Business may loan trust funds to a corporation located in a rural area for the express purpose of lending those funds to an identified borrower. The loan by the Office of Small Business to the corporation shall be up to the amount of and on terms similar to the loan between the corporation and the borrower. The loan between the Office of Small Business and the corporation shall be evidenced by a credit agreement. In the event that the loan between the corporation and borrower is not guaranteed by a governmental agency, the credit agreement shall be secured by assignment of any note, executed in favor of the corporation by the borrower to the Office of Small Business. The terms and conditions of the credit agreement shall be similar to the loan agreement between the corporation and the borrower which shall be collateralized by the note between the corporation and the borrower. In the absence of fraud on the part of the corporation, the liability of the corporation to repay the loan to the Office of Small Business is limited to the repayment received by the corporation from the borrower except in a case where the Farmers Home Administration requires exposure by the corporation in rule or regulation. The corporation may use trust funds for loan repayment to the Office of Small Business if the corporation has exhausted a loan loss reserve created for this purpose. Interest and principal received by the Office of Small Business from the corporation shall be deposited in the small business development corporation loan guarantee account of that corporation.

CHAPTER 143

An act to amend Section 21655.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 21655.5 of the Vehicle Code is amended to read:

21655.5. The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may authorize or permit exclusive or preferential use of highway lanes for high-occupancy vehicles. Prior to establishing the lanes, competent engineering estimates shall be made of the effect of the lanes on safety, congestion, and highway capacity.

The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, shall place and maintain, or cause to be placed and maintained, signs and other official traffic control devices to designate the exclusive or preferential lanes, to advise motorists of the applicable vehicle occupancy levels, and, except where ramp metering and bypass lanes are regulated with the activation of traffic signals, to advise motorists of the hours of high-occupancy vehicle usage. No person shall drive a vehicle upon those lanes except in conformity with the instructions imparted by the official traffic control devices. A motorcycle may be operated upon those exclusive or preferential lanes unless specifically prohibited by a traffic control device.

It is the intent of the Legislature, in amending this section, to stimulate and encourage the development of ways and means of relieving traffic congestion on California highways and, at the same time, to encourage individual citizens to pool their vehicular resources and thereby conserve fuel and lessen emission of air pollutants.

CHAPTER 144

An act to amend Section 286 of, and to repeal Section 287 of, the Penal Code, relating to crimes.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or 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 shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or 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 shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4 shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time 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, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to 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.

(h) Any person who commits an act of sodomy, and the victim is at the time 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, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to 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 legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim 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, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, 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, shall be punished by imprisonment in the state prison for three, six, or eight years.

As used in this subdivision, "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.

(*l*) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability

to pay the fine permitted under this subdivision.

SEC. 2. Section 287 of the Penal Code is repealed.

SEC. 3. It is the Legislature's intent in enacting this act to include all of the elements of the crime of sodomy in one code section.

CHAPTER 145

An act to amend Section 7068.1 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 7068.1 of the Business and Professions Code is amended to read:

7068.1. The person qualifying on behalf of an individual or firm under paragraph (1), (2), or (3) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control of his or her employer's or principal's construction operations as is necessary to secure full compliance with the provisions of this chapter and the rules and regulations of the board relating to the construction operations. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

(a) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.

(b) The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

(c) With respect to a firm under paragraph (2) or (3) of subdivision (b) of Section 7068, the majority of the partners or officers are the same.

(d) Notwithstanding subdivisions (a), (b), and (c), a qualifying individual may act as the qualifier for no more than three firms in any one-year period. Any qualifier, on January 1, 1992, who is acting as the qualifier for more than three firms shall comply with this section by January 1, 1993.

(e) Failure to comply with the requirement set forth in subdivision (d) shall result in the disassociation of the qualifying individual and automatic suspension of the licensee's contractor's license effective January 1, 1993.

"Firm," as used in this section, means a copartnership, a limited partnership, a corporation, or any other combination or organization described in Section 7068.

"Person," as used in this section, is limited to persons natural,

notwithstanding the definition of "person" in Section 7025 of this chapter.

The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations.

CHAPTER 146

An act to amend Sections 45221 and 45319 of the Education Code, relating to school employees.

[Approved by Governor July 22, 1991 Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 45221 of the Education Code is amended to read:

45221. (a) On or after the effective date of this section the classified employees of any district whose average daily attendance is 3,000 or greater, may, in accordance with this article, petition the governing board to make the provisions of Article 6 (commencing with Section 45240) of this chapter applicable to their employer district. That petition shall read substantially as follows:

"We, the undersigned classified employees of the _____ (name of school district), constituting 15 percent or more of the classified personnel entitled to vote, request the governing board to submit to election the question of whether or not the merit (civil service) system shall become applicable to this district.

NAME POSITION CLASSIFICATION"

"Classified employee," as used in this section, shall be construed to include all personnel who are a part of the classified service as defined in Section 45103.

(b) Within 120 days after receipt of the petition the governing board shall do all of the following:

(1) Obtain the services of competent and qualified persons to present the pros and cons of the issue. Notwithstanding this paragraph, the classified employees who submitted the petition may select the person or persons to present the proponent position on the issue.

(2) Provide adequate and ample opportunity for all of its classified personnel to attend one or more meetings at which the issue is presented.

(3) Having complied with paragraphs (1) and (2), conduct an

election by secret ballot of its classified personnel to determine whether or not they desire to make the merit system applicable to the district. The ballot shall read:

"Shall the merit (civil service) system for classified employees be applicable in the _____ (name of school district)?
☐ Yes
☐ No"

Although the ballot shall not require the employees' signatures or other personal identifying requirements, the governing board shall devise an identification system to ensure against fraud in the balloting process.

(4) The governing board shall appoint a three- or five-person tabulating committee, at least one member of which shall be a member of the governing board, to canvass the ballots and present the results to the governing board. If a simple majority votes in favor of the merit system, that system shall become applicable in the district.

(c) The tabulating committee required under this section shall certify the results of the election to the governing board at the next regular or special meeting of the board following the date the committee completes tabulation of the votes. If the tabulating committee completes the tabulation on the same day that the governing board meets in regular or special session, the committee shall certify the results of the election to the board at that meeting.

SEC. 2. Section 45319 of the Education Code is amended to read:

45319. A merit (civil service) system within a school district may be terminated by one of the following methods:

(a) If the governing board of a school district, or a county board of education, receives a written petition of qualified electors not less in number than 10 percent of the number voting in the last election for a member of the board calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years or has been imposed pursuant to the terms of Section 45119 or 45120, the board shall order the county superintendent of schools to place the question of termination of the system on the ballot at the next regular governing board member election, or county board of education member election, or the next primary or general election in a general election year, whichever is the earlier after receipt by the county superintendent of schools.

The statement of purpose of the election shall read:

"Shall the merit (civil service) system for school employees not requiring certification qualifications, as provided for in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2 of the Education Code of the State of California, and which has been in operation for at least five years, be terminated by the _____ School District of _____ County (or counties, where appropriate), or by the County Office of Education of _____

County on _____ (date to be specified by board)?"

The petition calling for the election, to be valid, shall contain the statement of purpose for the election as contained in this section.

(b) If the governing board of a school district, or the county board of education, receives a written petition from 40 percent of the classified employees entitled to vote calling for the termination of the merit (civil service) system and the system has been in operation for not less than five years or has been imposed pursuant to the terms of Section 45119 or 45120, the governing board shall conduct an election by secret ballot of its classified personnel to determine whether or not they desire to have the merit system terminated within the district. The ballot shall read: "Shall the merit (civil service) system for classified employees be terminated in the _____ (name of school district, or county office of education) as of _____ (termination date)?"

As used in this subdivision, "classified employees" means all personnel who are a part of the classified service who are appointed in accordance with Section 45272.

In order to be valid, the petition calling for the termination of the merit (civil service) system shall be submitted to the governing board within 90 days after the date that the notice for the circulation of the petition was filed with the governing board. The election shall be held during the regular school year and shall be held no earlier than 45 days and no later than 180 days after the date that the petition was submitted to the governing board.

If the merit system was adopted pursuant to Section 45224.5, classified employees entitled to vote in an election pursuant to this subdivision shall be limited to those classified employees who reside in the district.

(c) The governing board shall devise an identification system designed to protect against fraud in the balloting process. In addition, the governing board shall appoint a three-member tabulation committee consisting of one member of the governing board, one member of the personnel commission of the district, and one member who shall be a classified employee of the district. It shall be the responsibility of the tabulation committee to canvass the election ballots and to certify the results of the election to the governing board at the next regular meeting of the governing board following the completion of the tabulation of the election ballots by the committee.

(d) Notwithstanding any other provision of law, the governing board shall not be required to provide release time for classified personnel to vote in an election conducted pursuant to subdivision (b). The governing board shall not conduct an election under subdivision (b) more than once in any two-year period.

(e) It shall be unlawful for a public school employer and the exclusive representative of the classified employees of a school district to include the subject of the termination of the merit (classified service) system within the scope of representation.

(f) Members of the classified service shall be provided an adequate and ample opportunity to be informed of the arguments in favor of and in opposition to the termination of the merit (civil service) system prior to the conducting of an election called pursuant to subdivision (b). That opportunity shall include an open forum during which proponents of, and opponents to, the termination of the merit (civil service) system shall be permitted to debate the issue.

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 147

An act to amend Section 19809 of the Business and Professions Code, relating to gaming clubs.

[Approved by Governor July 22, 1991 Filed with Secretary of State July 22, 1991]

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

SECTION 1. Section 19809 of the Business and Professions Code is amended to read:

19809. (a) An application for registration may be denied if the person:

(1) Is under the age of 18 years.

(2) Makes a false statement required to be revealed in an application for registration issued pursuant to this chapter or any application made for permission to conduct a gaming club to a local authority.

(3) Has been convicted of a crime punishable as a felony.

(4) Has engaged in an act involving dishonesty charged or chargeable as a criminal offense relating to the acquisition of ownership or the operation of a gaming club, or has been convicted of an offense involving dishonesty.

(5) Has engaged in bookmaking or other illegal gambling activities or has been convicted of an offense involving such activities.

(6) Has any financial or other interest in any business or organization outside the State of California which is engaged in any form of gambling or gaming not authorized by the laws of this state, unless he or she has been registered in this state pursuant to this chapter for a period of not less than five consecutive years before obtaining his or her interest in the out-of-state business or organization.

(7) Has been issued a conditional registration and commits any act which would be grounds for suspension or revocation under Section 19810.

(b) The Attorney General may impose any condition upon registration reasonably necessary for implementation of this chapter.

(c) Denial of an application for any of the reasons specified in subdivision (a) shall not preclude the Attorney General or local enforcement agencies from filing criminal charges for any act done in making the application or for any act which is a ground for denial of a registration, which act might otherwise constitute a public offense.

CHAPTER 148

An act to repeal Sections 8710, 8920, 8921, 8945, 9210, 9275, 9420, 9421, 9800, 9818, 9830, 9840, 9841, and 9855 of the Elections Code, relating to state and county central committees.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 8710 of the Elections Code is repealed.

SEC. 2. Section 8920 of the Elections Code is repealed.

SEC. 3. Section 8921 of the Elections Code is repealed.

SEC. 4. Section 8945 of the Elections Code is repealed.

SEC. 5. Section 9210 of the Elections Code is repealed.

SEC. 6. Section 9275 of the Elections Code is repealed.

SEC. 7. Section 9420 of the Elections Code is repealed.

SEC. 8. Section 9421 of the Elections Code is repealed.

SEC. 9. Section 9800 of the Elections Code is repealed.

SEC. 10. Section 9818 of the Elections Code is repealed.

SEC. 11. Section 9830 of the Elections Code is repealed.

SEC. 12. Section 9840 of the Elections Code is repealed.

SEC. 13. Section 9841 of the Elections Code is repealed.

SEC. 14. Section 9855 of the Elections Code is repealed.

CHAPTER 149

An act to amend Section 243.4 of the Penal Code, relating to crimes.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. Such an act is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. Such an act is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(c) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. Such an act is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(d) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly,

through the clothing of the person committing the offense, or through the clothing of the victim.

(e) As used in subdivisions (a), (b), and (c), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(f) As used in this section, the following terms have the following meanings:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) "Sexual battery" does not include the crimes defined in Section 261 or 289.

(3) "Seriously disabled" means a person with severe physical or sensory disabilities.

(4) "Medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) "Institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(g) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

CHAPTER 150

An act to amend Section 22009.03 of the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1991 Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 22009.03 of the Government Code is amended to read:

22009.03. "Public agency" also includes a school district, a county superintendent of schools, and a regional occupational center or program established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, with respect to employees eligible for membership in the State Teachers' Retirement System.

This section shall become operative on July 1, 1990, and shall become inoperative on July 1, 1993, and, as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

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:

This bill makes specific the original intent of Chapter 1006 of the Statutes of 1989 with respect to applications of employers of certificated employees who are members of the State Teachers' Retirement System for Medicare-only coverage of those employees. In order that this clarifying legislation may take effect at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 151

An act to amend Section 35400 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 35400 of the Vehicle Code is amended to read:

35400. (a) No vehicle shall exceed a length of 40 feet.

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

(1) A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.

(2) A vehicle when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.

(3) An articulated bus or articulated trolley coach which does not exceed a length of 60 feet.

(4) A semitrailer while being towed by a motor truck or truck tractor, if the distance from the kingpin to the rearmost axle of the semitrailer does not exceed 40 feet for semitrailers having two or more axles, or 38 feet for semitrailers having one axle if the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motor truck or truck tractor.

(5) A bus when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. The safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, "safety bumper" means any device which is fitted on an existing bumper or which replaces the bumper and is constructed, treated, or manufactured to absorb energy upon impact.

(6) A bus when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. That device shall not cause the length of the bus to be extended by more than 18 inches, inclusive of any front safety bumper.

(7) A bus when the excess length is caused by a device attached to the rear of the bus designed and used exclusively for the transporting of bicycles. This device may be up to 10 feet in length, if the device, along with any other device permitted pursuant to this section, does not cause the total length of the bus, including any device or load, to exceed 50 feet.

(8) A bus operated by a public agency or a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, used in transit system service, other than a schoolbus, when the excess length is caused by a folding device attached to the front of the bus which is designed and used exclusively for transporting bicycles. The device, including any bicycles transported thereon, shall be mounted in a manner that does not materially affect efficiency or visibility of vehicle safety equipment, and shall not extend more than 36 inches from the front of the bus when fully deployed. A device described in this paragraph may not be used on any bus which, exclusive of the device, exceeds 40 feet in length or on any bus having a device attached to the rear of the bus pursuant to paragraph (7).

(c) The Legislature, by increasing the maximum permissible kingpin to rearmost axle distance to 40 feet effective January 1, 1987, as provided in paragraph (4) of subdivision (b), does not intend this action to be considered a precedent for any future increases in truck size and length limitations.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act will help promote the use of bicycles in place of motor vehicles and thus reduce vehicles, air pollution. In order to reduce vehicular air pollution at the earliest possible time, it is necessary that

this act take effect immediately.

CHAPTER 152

An act to add Section 45125.5 to the Education Code, relating to school employees.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 45125.5 is added to the Education Code, to read:

45125.5. A school district or county office of education may request that a local law enforcement agency conduct an automated records check of a prospective noncertificated employee in order to ascertain whether the prospective noncertificated employee has a criminal record. If the local law enforcement agency agrees to provide that automated records check, the results therefrom shall be returned to the requesting district or county office of education within 72 hours of the written request. A local law enforcement agency may charge a fee to the requesting agency not to exceed the actual expense to the law enforcement agency. For purposes of this section, "prospective noncertificated employee" includes only those applicants whom the requesting school district intends to hire, at the time the automated records check is requested.

CHAPTER 153

An act to amend Section 31680.3 of, and to add Section 31680.6 to, the Government Code, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 31680.3 of the Government Code is amended to read:

31680.3. Notwithstanding Section 31680.2, any member who has been covered under the provisions of Section 31751 and has retired may be reemployed in a position requiring special skills or knowledge, as determined by the county or district employing the member, for not to exceed 120 working days or 960 hours, whichever

is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend the person's retirement allowance, and no deductions shall be made from the person's salary as contributions to this system.

SEC. 2. Section 31680.6 is added to the Government Code, to read:

31680.6. Notwithstanding Section 31680.2, any county subject to Section 31680.2 may, upon adoption of a resolution by a majority vote by the board or supervisors, extend the period of time provided for in Section 31680.2 for which a person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, to not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year or any other 12-month period designated by the board of supervisors and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

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 county positions requiring special skills or knowledge for which there are insufficient available personnel may be temporarily filled at the earliest possible time by county retirees possessing the needed skills or knowledge, it is necessary that this act take effect immediately.

CHAPTER 154

An act to amend Section 1012.5 of the Code of Civil Procedure, and to amend Section 74839 of, and to add Section 68615 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 1012.5 of the Code of Civil Procedure is amended to read:

1012.5. (a) The Legislature finds that the use of facsimile transmission (FAX machines) has become commonplace in business and government. Currently, there are over 2.5 million FAX machines in the nation and the legal profession owns approximately

12 percent of these machines. Across the nation, courts are starting to address the use of FAX machines in the judicial system as a means of transmitting documents to the courts and to lawyers and litigants.

Use of FAX transmission of documents may alleviate congestion in and around courthouses, promote savings in the time spent by attorneys in filing documents with the courts and with other attorneys and litigants, and ultimately, will result in a savings to the legal consumer.

Therefore, the Judicial Council shall conduct pilot projects to encompass cases filed in three or more superior courts and three or more municipal or justice courts from January 1, 1990, to December 31, 1992, to determine how best to implement the use of facsimile transmission of documents in the judicial system and to assess the extent of savings due to implementation of FAX transmission. Moreover, the Judicial Council shall report to the Legislature on the results of these pilot projects and its specific proposals for implementation.

(b) The Judicial Council shall determine the effectiveness of these pilot projects by conducting a survey of attorneys, judicial officers, clerks of court, and process servers registered pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code, to determine whether the pilot project is effective in: (1) reducing courthouse congestion, (2) increasing courthouse filings by FAX to at least 25 percent of all filings in those courts participating in the pilot projects, (3) producing a time savings of at least 50 percent of the time normally required to file documents with the court, and (4) producing a savings in costs billed to the client.

(c) The Judicial Council shall report to the Legislature on these pilot projects and make its recommendations on any changes in law needed to promote uniform, efficient, and effective service or filing of legal documents by FAX on or before December 31, 1991. The report shall include a compilation of data, proposed standards, rules, or statutes for: (1) the types of facsimile machines, including personal computers with facsimile modems, that are suitable for use by the courts in receiving legal documents for filing, (2) the quality of paper to be used to ensure the permanency of court records, (3) the readability of documents sent by facsimile transmission, (4) the service and filing of documents which require an original signature, (5) the service on other parties to the action of legal documents by FAX, (6) the filing with the court of originals of documents first filed by FAX, (7) if necessary, modification of time periods for service and filing of documents by FAX, and (8) the cost to the courts for the equipment, supplies, additional staff, and administrative costs associated with the filing of legal documents by FAX and how these costs should be recovered.

(d) Notwithstanding any other provision of law, the Judicial Council may adopt rules of court for use in the pilot project counties to facilitate the purposes of the pilot project and to provide an

appropriate experiment. Any rules of court adopted by the Judicial Council pursuant to this subdivision shall not affect the requirements for personal or substituted service of the summons and complaint or any other opening paper.

SEC. 2. Section 68516 is added to the Government Code, to read:

68516. The Judicial Council is authorized to establish a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, qualified under federal and state law to receive grants or other financial support from private or public sources, for the purposes of undertaking or funding any survey, study, publication, proceeding, or other activity authorized by law to be undertaken by the Judicial Council.

SEC. 3. Section 74839 of the Government Code is amended to read:

74839. (a) The fee for reporting testimony and proceedings in contested cases in the Sutter County Municipal Court is one hundred ten dollars ($110) per day, or any fractional part thereof.

(b) In lieu of the fees provided for in subdivision (a) or any other compensation, including reimbursement for expenses, the board of supervisors may, with the approval of the presiding judge of the Sutter County Municipal Court, contract with official court reporters and reporters pro tempore, for the municipal court at a rate of two thousand fifty dollars ($2,050) per month. The board of supervisors may negotiate changes in this rate of compensation, but any such change shall remain in effect only until January 1 of the second year following the year in which the change is made.

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 disruption to courts and litigants in counties participating in the pilot project authorized by Section 1012.5 of the Code of Civil Procedure, in order to provide a mechanism for needed funding and specific authorization for the 2020 Vision Project for alternative futures planning for the courts, and in order to provide for adequate court reporters for Sutter County, it is necessary that this act take effect immediately.

CHAPTER 155

An act to amend Section 841 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 841 of the Welfare and Institutions Code is amended to read:

841. The duties of a deputy probation officer, or a probation aide, a community worker or a volunteer under the supervision of a deputy probation officer, assigned to home supervision are to assure the minor's appearance at probation officer interviews and court hearings and to assure that the minor obeys the conditions of his or her release and commits no public offenses pending final disposition of his or her case. A deputy probation officer, probation aide, or community worker assigned to home supervision shall have a caseload of no more than 10 minors. However, if the county probation department employs a method of home supervision which includes electronic surveillance, the caseload shall be no more than 15 minors. Whenever possible, a minor shall be assigned to a deputy probation officer, probation aide, community worker, or volunteer who resides in the same community as the minor.

CHAPTER 156

An act to amend Sections 722, 724, 773, 885.010, 885.015, and 885.070 of, to amend the heading of Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of Division 2 of, to add Chapter 7 (commencing with Section 1391) to Title 7 of Part 4 of Division 2 of, to repeal Sections 715.2, 715.3, 715.4, 715.5, 715.6, 715.7, 716, and 716.5 of, to repeal Chapter 7 (commencing with Section 1391.1) of Title 7 of Part 4 of Division 2 of, and to repeal and add Section 715 of, the Civil Code, and to add Sections 15211, 15212, 15413, and 15414 to, and to add Part 2 (commencing with Section 21201) to Division 11 of, the Probate Code, relating to perpetuities.

[Approved by Governor July 22, 1991 Filed with Secretary of State July 23, 1991]

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

SECTION 1. The heading of Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of Division 2 of the Civil Code is amended to read:

Article 3. Duration of Leases

SEC. 2. Section 715 of the Civil Code is repealed.

SEC. 3. Section 715 is added to the Civil Code, to read:

715. A lease to commence at a time certain or upon the happening of a future event becomes invalid if its term does not actually commence in possession within 30 years after its execution.

SEC. 4. Section 715.2 of the Civil Code is repealed.

SEC. 5. Section 715.3 of the Civil Code is repealed.

SEC. 6. Section 715.4 of the Civil Code is repealed.

SEC. 7. Section 715.5 of the Civil Code is repealed.

SEC. 8. Section 715.6 of the Civil Code is repealed.

SEC. 9. Section 715.7 of the Civil Code is repealed.

SEC. 10. Section 716 of the Civil Code is repealed.

SEC. 11. Section 716.5 of the Civil Code is repealed.

SEC. 12. Section 722 of the Civil Code is amended to read:

722. Dispositions of the income of property to accrue and to be received at any time subsequent to the execution of the instrument creating such disposition are governed by the rules relating to future interests.

SEC. 13. Section 724 of the Civil Code is amended to read:

724. (a) An accumulation of the income of property may be directed by any will, trust or transfer in writing sufficient to pass the property or create the trust out of which the fund is to arise, for the benefit of one or more persons, objects or purposes, but may not extend beyond the time permitted for the vesting of future interests.

(b) Notwithstanding subdivision (a), the income arising from real or personal property held in a trust forming part of a profit-sharing plan of an employer for the exclusive benefit of its employees or their beneficiaries or forming part of a retirement plan formed primarily for the purpose of providing benefits for employees on or after retirement may be permitted to accumulate until the fund is sufficient, in the opinion of the trustee or trustees, to accomplish the purposes of the trust.

SEC. 14. Section 773 of the Civil Code is amended to read:

773. Subject to the rules of this title, and of Part 1 of this division, a freehold estate, as well as a chattel real, may be created to commence at a future day; an estate for life may be created in a term of years, and a remainder limited thereon; a remainder of a freehold or chattel real, either contingent or vested, may be created, expectant on the determination of a term of years; and a fee may be limited on a fee, upon a contingency, which, if it should occur, must happen within the period prescribed by the statutory rule against perpetuities in Article 2 (commencing with Section 21205) of Chapter 1 of Part 2 of Division 11 of the Probate Code.

SEC. 15. Section 885.010 of the Civil Code is amended to read:

885.010. (a) As used in this chapter:

(1) "Power of termination" means the power to terminate a fee simple estate in real property to enforce a restriction in the form of

a condition subsequent to which the fee simple estate is subject, whether the power is characterized in the instrument that creates or evidences it as a power of termination, right of entry or reentry, right of possession or repossession, reserved power of revocation, or otherwise, and includes a possibility of reverter that is deemed to be and is enforceable as a power of termination pursuant to Section 885.020.

(2) "Power of termination" includes the power created in a transferee to terminate a fee simple estate in real property to enforce a restriction on the use of the real property in the form of a limitation or condition subsequent to which the fee simple estate is subject, whether the power is characterized in the instrument that creates or evidences it as an executory interest, executory limitation, or otherwise, and includes the interest known at common law as an executory interest preceded by a fee simple determinable.

(b) A power of termination is an interest in the real property.

(c) For the purpose of applying this chapter to other statutes relating to powers of termination, the terms "right of reentry," "right of repossession for breach of condition subsequent," and comparable terms used in the other statutes mean "power of termination" as defined in this section.

SEC. 16. Section 885.015 of the Civil Code is amended to read:

885.015. This chapter does not apply to any of the following:

(a) A power of termination conditioned upon the continued production or removal of oil or gas or other minerals.

(b) A power of termination as to separately owned improvements or fixtures conditioned upon the continued leasehold or possessory interest in the underlying land.

SEC. 17. Section 885.070 of the Civil Code is amended to read:

885.070. (a) Subject to Section 880.370 (grace period for recording notice) and except as otherwise provided in this section, this chapter applies on the operative date to all powers of termination, whether executed or recorded before, on, or after the operative date.

(b) If breach of the restriction to which the fee simple estate is subject occurred before the operative date of this chapter and the power of termination is not exercised before the operative date of this chapter, the power of termination shall be exercised, or in the case of a power of termination of record, exercised of record, within the earlier of the following times:

(1) The time that would be applicable pursuant to the law in effect immediately prior to the operative date of this chapter.

(2) Five years after the operative date of this chapter.

(c) As used in this section, "operative date" means the operative date of this chapter as enacted or, with respect to any amendment of a section of this chapter, the operative date of the amendment.

SEC. 18. Chapter 7 (commencing with Section 1391) is added to Title 7 of Part 4 of Division 2 of the Civil Code, to read:

CHAPTER 7. RULE AGAINST PERPETUITIES

1391. The statutory rule against perpetuities provided by Part 2 (commencing with Section 21200) of Division 11 of the Probate Code applies to powers of appointment governed by this part.

SEC. 19. Chapter 7 (commencing with Section 1391.1) of Title 7 of Part 4 of Division 2 of the Civil Code is repealed.

SEC. 20. Section 15211 is added to the Probate Code, to read:

15211. A trust for a noncharitable corporation or unincorporated society or for a lawful noncharitable purpose may be performed by the trustee for only 21 years, whether or not there is a beneficiary who can seek enforcement or termination of the trust and whether or not the terms of the trust contemplate a longer duration.

SEC. 21. Section 15212 is added to the Probate Code, to read:

15212. A trust for the care of a designated domestic or pet animal may be performed by the trustee for the life of the animal, whether or not there is a beneficiary who can seek enforcement or termination of the trust and whether or not the terms of the trust contemplate a longer duration.

SEC. 22. Section 15413 is added to the Probate Code, to read:

15413. A trust provision, express or implied, that the trust may not be terminated is ineffective insofar as it purports to be applicable after the expiration of the longer of the periods provided by the statutory rule against perpetuities, Article 2 (commencing with Section 21205) of Chapter 1 of Part 2 of Division 11.

SEC. 23. Section 15414 is added to the Probate Code, to read:

15414. Notwithstanding any other provision in this chapter, if a trust continues in existence after the expiration of the longer of the periods provided by the statutory rule against perpetuities, Article 2 (commencing with Section 21205) of Chapter 1 of Part 2 of Division 11, the trust may be terminated in either of the following manners:

(a) On petition by a majority of the beneficiaries.

(b) On petition by the Attorney General or by any person who would be affected by the termination, if the court finds that the termination would be in the public interest or in the best interest of a majority of the persons who would be affected by the termination.

SEC. 24. Part 2 (commencing with Section 21200) is added to Division 11 of the Probate Code, to read:

PART 2. PERPETUITIES

CHAPTER 1. UNIFORM STATUTORY RULE AGAINST PERPETUITIES

Article 1. General Provisions

21200. This chapter shall be known and may be cited as the Uniform Statutory Rule Against Perpetuities.

21201. This chapter supersedes the common law rule against perpetuities.

21202. (a) Except as provided in subdivision (b), this part applies to nonvested property interests and unexercised powers of appointment regardless of whether they were created before, on, or after January 1, 1992.

(b) This part does not apply to any property interest or power of appointment the validity of which has been determined in a judicial proceeding or by a settlement among interested persons.

Article 2. Statutory Rule Against Perpetuities

21205. A nonvested property interest is invalid unless one of the following conditions is satisfied:

(a) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive.

(b) The interest either vests or terminates within 90 years after its creation.

21206. A general power of appointment not presently exercisable because of a condition precedent is invalid unless one of the following conditions is satisfied:

(a) When the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive.

(b) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

21207. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless one of the following conditions is satisfied:

(a) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive.

(b) The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

21208. In determining whether a nonvested property interest or a power of appointment is valid under this article, the possibility that a child will be born to an individual after the individual's death is disregarded.

21209. (a) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument (1) seeks to disallow the vesting or termination of any interest or trust beyond, (2) seeks to postpone the vesting or termination of any interest or trust until, or (3) seeks to operate in effect in any similar fashion upon, the later of (A) the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (B) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period that exceeds 21 years after the death of the survivor of the specified lives.

(b) Notwithstanding Section 21202, this section applies only to governing instruments, including instruments exercising powers of appointment, executed on or after January 1, 1992.

Article 3. Time of Creation of Interest

21210. Except as provided in Sections 21211 and 21212, the time of creation of a nonvested property interest or a power of appointment is determined by other applicable statutes or, if none, under general principles of property law.

21211. For purposes of this chapter:

(a) If there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of (1) a nonvested property interest or (2) a property interest subject to a power of appointment described in Section 21206 or 21207, the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(b) A joint power with respect to community property held by individuals married to each other is a power exercisable by one person alone.

21212. For purposes of this chapter, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

Article 4. Reformation

21220. On petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the 90 years allowed by the applicable provision in Article 2 (commencing with Section 21205), if any of the following conditions is satisfied:

(a) A nonvested property interest or a power of appointment becomes invalid under the statutory rule against perpetuities provided in Article 2 (commencing with Section 21205).

(b) A class gift is not but might become invalid under the statutory rule against perpetuities provided in Article 2 (commencing with Section 21205), and the time has arrived when the share of any class member is to take effect in possession or enjoyment.

(c) A nonvested property interest that is not validated by subdivision (a) of Section 21205 can vest but not within 90 years after its creation.

Article 5. Exclusions from Statutory Rule Against Perpetuities

21225. This chapter does not apply to any of the following:

(a) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of (1) a premarital or postmarital agreement, (2) a separation or divorce settlement, (3) a spouse's election, (4) or a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties, (5) a contract to make or not to revoke a will or trust, (6) a contract to exercise or not to exercise a power of appointment, (7) a transfer in satisfaction of a duty of support, or (8) a reciprocal transfer.

(b) A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income.

(c) A power to appoint a fiduciary.

(d) A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal.

(e) A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision.

(f) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse.

(g) A property interest, power of appointment, or arrangement that was not subject to the common law rule against perpetuities or is excluded by another statute of this state.

(h) A trust created for the purpose of providing for its beneficiaries under hospital service contracts, group life insurance, group disability insurance, group annuities, or any combination of such insurance, as defined in the Insurance Code.

CHAPTER 2. RELATED PROVISIONS

21230. The lives of individuals selected to govern the time of vesting pursuant to Article 2 (commencing with Section 21205) of Chapter 1 may not be so numerous or so situated that evidence of their deaths is likely to be unreasonably difficult to obtain.

21231. In determining the validity of a nonvested property interest pursuant to Article 2 (commencing with Section 21205) of

Chapter 1, an individual described as the spouse of an individual alive at the commencement of the perpetuities period shall be deemed to be an individual alive when the interest is created, whether or not the individual so described was then alive.

CHAPTER 157

An act to amend Section 1189 of the Civil Code, relating to acknowledgment of instruments.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 1189 of the Civil Code is amended 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, (here insert name and title of the officer), 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/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

(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.

(c) An acknowledgment provided prior to January 1, 1993, and conforming to applicable provisions of former Sections 1189, 1190, 1190a, 1190.1, 1191, and 1192, as repealed by Chapter 335 of the Statutes of 1990, shall have the same force and effect as if those sections had not been repealed.

CHAPTER 158

An act to add Section 41815 to the Health and Safety Code, relating to air pollution.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 41815 is added to the Health and Safety Code, to read:

41815. Notwithstanding any local ordinance adopted pursuant to Section 37100 of the Government Code or by charter provision to prohibit the burning of waste materials, the burning of the gaseous byproducts of the recycling of water by a waste water treatment facility as part of an energy conservation and cost reduction program to generate power to operate the facility shall be permitted if the burning operation complies with all regulations of the district having jurisdiction and any other applicable provisions of state law.

CHAPTER 159

An act to amend Sections 130231 and 130239 of, to add Section 130355 to, and to repeal Sections 130222 and 130223 of, the Public Utilities Code, relating to transportation.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 130222 of the Public Utilities Code is repealed.

SEC. 2. Section 130223 of the Public Utilities Code is repealed.

SEC. 3. Section 130231 of the Public Utilities Code is amended to read:

130231. (a) The Los Angeles County Transportation Commission is authorized to impose a transactions and use tax within the County of Los Angeles pursuant to the approval by the voters of the commission's Ordinance No. 16 in 1980 and its Ordinance No. 49 in 1990, and has the authority and power vested in the Southern California Rapid Transit District to plan, design, and construct an exclusive public mass transit guideway system in the County of Los Angeles, including, but not limited to, Article 5 (commencing with Section 30630 of Chapter 5 of Part 3 of Division 11).

(b) The commission shall conform to this article in letting contracts for the construction of that system.

SEC. 4. Section 130239 of the Public Utilities Code is amended to read:

130239. In order to facilitate the participation of minority-owned and women-owned businesses and disadvantaged individuals in activities and contracts of the commission, to the extent that the provisions of Executive Order 11246 of September 24, 1965, as amended, and Chapter 60 (commencing with Section 60.1) of Title 41 and Part 23 (commencing with Section 23.1) of Title 49 of the Code of Federal Regulations are not applicable, the commission has the authority to develop a program to implement similar provisions applicable to its activities and contracts.

SEC. 5. Section 130355 is added to the Public Utilities Code, to read:

130355. Any action or proceeding in which the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within 90 days after the date this section becomes effective; otherwise, those proceedings, including the adoption and approval of the ordinance, are valid, and in every respect legal and incontestable.

CHAPTER 160

An act to amend Section 11580.15 of the Insurance Code, relating to insurance.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 11580.15 of the Insurance Code is amended to read:

11580.15. Subject to the approval of the Insurance Commissioner, every admitted insurer issuing or renewing motor vehicle liability policies as defined in Section 16054 or 16450 of the Vehicle Code shall, at the time of offering to issue or offering to renew any such policy, disclose to the applicant in writing as a freestanding document, which brings attention to the applicant, all discounts, if any, that are available from the insurer for that insurance and for any related insurance provided under that policy. The insurer shall disclose any discounts for good drivers, senior drivers, students, multiple cars, and any other discounts that are available from that insurer. The disclosure shall be required for personal lines of motor vehicle insurance.

Every insurer that sells insurance through licensed agents or brokers shall disclose in writing to the agents and brokers all of the discounts that are required to be disclosed to the applicant under this

section, and shall require its agents and brokers to make the disclosures required by this section.

CHAPTER 161

An act to amend Section 25003 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 25003 of the Business and Professions Code is amended to read:

25003. Filed price schedules are subject to public inspection only after they take effect. Each filing licensee shall retain in the licensed premises a copy of his or her effective posted and filed schedule.

CHAPTER 162

An act to amend Section 20229.1 of the Public Contract Code, relating to transit.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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 (1) electronic equipment, including, but not limited to, computers, telecommunications equipment, fare collection equipment, and microwave equipment and (2) specialized rail transit equipment, including, but not limited to, rail cars by competitive negotiation upon a finding by two-thirds of all members of the board that the purchase of that equipment 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 equipment of the type specified in subdivision (a) 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 that equipment 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.

CHAPTER 163

An act to amend Section 15399.41 of the Government Code, relating to data processing, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 15399.41 of the Government Code is amended to read:

15399.41. (a) It is the intent of the Legislature that there be established in the state, based on recommendations of the study required by this section, a supercomputer center in coordination with the Technology Center of Silicon Valley and the San Diego Supercomputer Center.

(b) The purpose of the study shall be to do all of the following:

(1) Identify the supercomputer needs in the state considering the availability of existing supercomputers.

(2) Identify the most cost-effective methods for establishing a center pursuant to this section.

(3) Identify potential sources of funding for establishing a center pursuant to this section.

(4) Identify any additional needs and costs for the San Diego Supercomputer Center.

(5) Identify the potential of attracting more business to California as a result of supercomputer capabilities.

(c) The Department of Commerce shall contract for the preparation of the study described in this section and shall submit the completed study to the Legislature no later than June 30, 1991.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the June 30, 1990, deadline for submission of the study required by Section 15399.41 of the Government Code, it is necessary for this act to take effect immediately.

CHAPTER 164

An act to amend Sections 65081 and 65082 of the Government Code, relating to transportation.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 65081 of the Government Code is amended to read:

65081. The regional transportation plan shall include:

(a) A policy element that considers important transportation issues and describes the desired short- and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall consider probable funding constraints.

(b) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element shall also include a program for developing intracity and intercity bicycle programs.

The action element shall include all congestion management programs adopted pursuant to Chapter 2.6 (commencing with Section 65088).

(c) A financial element that summarizes the cost of plan implementation, compares these costs to a realistic projection of available revenues, and includes estimates of expected surplus and deficits. It shall contain recommendations for the allocation of funds and for the development of new sources of revenues if needed.

SEC. 2. Section 65082 of the Government Code is amended to read:

65082. (a) A seven-year regional transportation improvement program shall be prepared, adopted, and submitted to the California Transportation Commission on or before December 1 of each odd-numbered year , updated every two years, pursuant to Sections 65080 and 65080.5 and the guidelines adopted pursuant to Section 14530.1, to include projects and programs proposed to be funded, in whole or in part, by funds which are any of the following:

(1) For flexible congestion relief projects, as defined in Section 164.2 of the Streets and Highways Code.

(2) For urban rail transit and commuter rail projects.

Major projects shall include an escalated current cost updated to at least November 1 of the year of submittal, and be listed by relative priority, taking into account need, delivery milestone dates, as defined in Section 14525.5, and the availability of funding.

(b) Congestion management programs adopted pursuant to Section 65089 shall be incorporated into the regional transportation improvement program submitted to the commission by December 1, 1991, and every two years thereafter.

(c) The incorporation of the congestion management program into the regional transportation improvement program required to be submitted to the commission by December 1, 1991, may be delayed for a period not to exceed one year if an environmental impact report is required to be prepared for the congestion management program pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, and the following conditions are met:

(1) The agency, as defined by Section 65088.1, adopts written findings that the congestion management program cannot be incorporated into the regional transportation improvement program by December 1, 1991, due to the time required to prepare an environmental impact report pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) The agency adopts a schedule for development of the congestion management program that will result in its adoption no later than December 1, 1992, and submits a report to the Legislature by July 1, 1992, on the progress of complying with this section.

(3) The agency, county, and cities take every action necessary to assure the congestion management program will be adopted by December 1, 1992.

(d) If the incorporation of the congestion management program into the regional transportation improvement program is delayed pursuant to subdivision (c), both of the following shall apply:

(1) Any project included in the state transportation improvement program or the traffic systems management program prior to December 1, 1992, which is otherwise required to be included in the congestion management program, pursuant to subdivision (e), but which is not included in the congestion management program to be incorporated into the regional transportation improvement program pursuant to subdivision (b), shall be deleted from the state transportation improvement program or the traffic systems management program.

(2) Local projects which are otherwise required to be included in the congestion management program, pursuant to subdivision (e), may be included in the regional transportation improvement program to be submitted to the California Transportation Commission by December 1, 1991. Any local project which is included in the regional transportation improvement program after December 1, 1991, but prior to December 1, 1992, which is otherwise required to be included in the congestion management program, but which is not included in the congestion management program to be incorporated into the regional transportation improvement program pursuant to subdivision (b), shall be deleted from the regional transportation improvement program.

(e) Local projects not included in a congestion management program shall not be included in the regional transportation improvement program. Projects and programs adopted pursuant to subdivision (a) shall be consistent with the seven-year capital

improvement program adopted pursuant to paragraph (5) of subdivision (b) of Section 65089, and the guidelines adopted pursuant to Section 14530.1.

(f) Other projects may be included in the regional transportation improvement program if listed separately.

(g) Unless a county not containing urbanized areas of over 50,000 population notifies the Department of Transportation by July 1 that it intends to prepare a regional transportation improvement program for that county, the department shall, in consultation with the affected local agencies, prepare the program for all counties for which it prepares a regional transportation plan.

(h) The regional transportation improvement program may not change the project delivery milestone date of any state project as shown in the prior adopted state transportation program without the consent of the department or other agency responsible for the project delivery.

CHAPTER 165

An act to amend Section 12100 of the Penal Code, relating to crimes.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 12100 of the Penal Code is amended to read:

12100. (a) No person or corporation shall sell any pistol, revolver, or other firearm capable of being concealed upon the person to any minor.

(b) No person or corporation shall furnish, give, or otherwise transfer possession of any pistol, revolver, or other firearm capable of being concealed upon the person to any minor without the prior written consent or implied permission of a parent or legal guardian. The written consent shall be presented to the person or corporation at the time of the furnishing, giving, or other transfer of legal possession.

(c) (1) Every person who violates this section is guilty of a misdemeanor.

(2) A person is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, if one of the following applies:

(A) He or she violates this section or Section 12072 and has been convicted previously of violating this section or Section 12072.

(B) He or she violates this section or Section 12072 and has been convicted previously of violating Section 8101 of the Welfare and Institutions Code or of a crime set forth in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

(C) He or she violates this section or Section 12072 and is in a prohibited class described in Section 12021 or 12021.1 of this code or in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) A person convicted of a second or subsequent violation of this section, Section 12072 of this code, or Section 8101 of the Welfare and Institutions Code may be granted probation only in an unusual case where the interests of justice would best be served. When probation is granted, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by that disposition. Except as provided in this paragraph, probation shall not be granted, nor shall the execution or imposition of sentence be suspended for any person who has been convicted previously of this section, Section 12072 of this code, or Section 8101 of the Welfare and Institutions Code.

CHAPTER 166

An act to amend Section 5011.5 of the Public Resources Code, relating to the state park system.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 5011.5 of the Public Resources Code is amended to read:

5011.5. A veteran of any war in which the United States has been, or may be engaged, who is a resident of this state, upon presentation to the department of proof of disability or proof of being held prisoner of war and of an honorable discharge from service, shall, upon application therefor and payment of three dollars and fifty cents ($3.50), be issued a pass entitling the bearer to the use of all facilities, including boat launching facilities, in units of the state park system.

As used in this section, "war" means that period of time commencing when Congress declares war or when the Armed Forces of the United States are engaged in active military operations against any foreign power, whether or not war has been formally declared, and ending upon the termination of hostilities as proclaimed by the President of the United States.

As used in this section, "veteran" means any member of the Armed Forces of the United States who has a 70 percent or greater service-connected disability or a service-connected disability rated at 100 percent for reasons of unemployability or was held as a prisoner of war by forces hostile to the United States, as certified by the Veterans' Administration, and who was honorably discharged from service.

CHAPTER 167

An act to amend Sections 74206 and 74220 of, and to add Section 55310.2 to, the Water Code, relating to water.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 55310.2 is added to the Water Code, to read:

55310.2. (a) Notwithstanding Section 55301, the Board of Supervisors of Mendocino County may appoint a board of directors to serve as the governing board of the Mendocino County Waterworks District #2. A determination by the board of supervisors to appoint a board of directors shall be made following a public hearing at a regular meeting of the board. If the board of supervisors determines to appoint a board of directors, it shall appoint five directors for the district, and each director shall serve at the pleasure of the board of supervisors. Any appointed board of directors succeeds to, and has all the powers conferred on, the board of supervisors in reference to the Mendocino County Waterworks District #2. Except as provided in Section 55302, the board of supervisors shall have no further jurisdiction except for the appointment of directors.

(b) The Legislature hereby finds and declares that facts and circumstances exist in Mendocino County peculiar to that county which necessitates that the board of supervisors of that county be given the authority to appoint an independent board of directors to serve as the governing board of the Mendocino County Waterworks District #2. The Legislature finds and declares, therefore, that a general law cannot be made applicable to that district.

SEC. 2. Section 74206 of the Water Code is amended to read:

74206. Each director shall execute an official bond in the sum of one thousand dollars ($1,000). The director shall file that official bond, together with his or her official oath, with the secretary.

SEC. 3. Section 74220 of the Water Code is amended to read:

74220. On the first Tuesday next following the formation election, as to the first board, and at the first meeting of the board following the time of taking office of the directors elected in each subsequent general district election, but in no event later than the last day of December, the directors shall meet and organize as a board.

CHAPTER 168

An act to amend Section 20228 of the Public Contract Code, relating to transit.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 20228 of the Public Contract Code is amended to read:

20228. (a) Notwithstanding Section 20221, work on the Oakland Wye complex to the MacArthur Station project and on the Daly City turnback and storage facilities project may be performed by district personnel during periods of operation of the transit system when interconnection work is to be performed within 12 feet of the centerline of the existing track.

(b) Notwithstanding Section 20221, interconnection work required for the Dublin-Pleasanton Extension, Warm Springs Extension, Pittsburg-Antioch Extension, Colma-San Francisco Airport Extensions, and work required by Department of Transportation retrofit or replacement projects may be performed by district personnel when the work is to be performed within 12 feet of the centerline of existing track or where the tie-in or startup of the work could affect operating train control, traction power, electrical control, or communications systems and the district has determined that there is a clear risk to safety of personnel or to passenger service which requires that district personnel perform the work.

(c) Notwithstanding subdivisions (a) and (b), it shall continue to be the policy of the district to perform all interconnection work by competitive bidding.

CHAPTER 169

An act to amend Section 37223 of the Education Code, relating to schools.

[Approved by Governor July 22, 1991 Filed with Secretary of State July 23, 1991]

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

SECTION 1. Section 37223 of the Education Code is amended to read:

37223. (a) The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.

The classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, makeup classes for unexcused absences occurring during the week, and the programs of a regional occupational center or regional occupational program.

(b) Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for the pupil per week.

(c) Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil. However, the governing board may require truants, as defined by Section 48260, to attend makeup classes conducted on one day of a weekend.

(d) Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday through Friday school week.

(e) The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 52200, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

(f) Subdivisions (b) and (d) of this section shall not apply to regional occupational centers or programs.

CHAPTER 170

An act to amend Section 798.17 of the Civil Code, relating to mobilehome parks.

[Approved by Governor July 22, 1991. Filed with Secretary of State July 23, 1991.]

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

SECTION 1. Section 798.17 of the Civil Code, as amended by Chapter 24 of the Statutes of 1991, is amended to read:

798.17. (a) Rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of such a rental agreement shall prevail over conflicting provisions of such an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate

charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

The first paragraph of a rental agreement entered into pursuant to this section shall contain a provision notifying the homeowner that the rental agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the following criteria:

(1) The rental agreement shall be in excess of 12 months' duration.

(2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.

(3) The homeowner shall have at least 30 days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement.

(4) The homeowner who executes a rental agreement offered pursuant to this section may void the rental agreement by notifying management in writing within 72 hours of the homeowner's execution of the rental agreement.

(c) The homeowner shall have the option to reject the offered rental agreement and instead accept a rental agreement for a term of 12 months or less from the date the offered rental agreement begins. In the event the homeowner elects to have a rental agreement for a term of 12 months or less, including a month-to-month rental agreement, the rental agreement shall contain the same "rental charges" terms and conditions as the offered rental agreement during the first 12 months, except for options contained in the offered rental agreement to extend or renew the rental agreement.

(d) Nothing in subdivision (c) shall be construed to prohibit management from offering gifts of value, other than rental rate reductions, to homeowners who execute a rental agreement pursuant to this section.

(e) With respect to any space in a mobilehome park which is exempt under subdivision (a) from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the mobilehome park shall be exempt from any fee or other exaction imposed pursuant to such an ordinance, rule, regulation, or initiative measure or imposed for the purpose of defraying the cost of administration thereof.

(f) At the time the rental agreement is first offered to the homeowner, the management shall provide written notice to the homeowner of the homeowner's right (1) to have at least 30 days to inspect the rental agreement, and (2) to void the rental agreement

by notifying management in writing within 72 hours of the acceptance of a rental agreement. The failure of the management to provide the written notice shall make the rental agreement voidable at the homeowner's option upon the homeowner's discovery of the failure. The receipt of any written notice provided pursuant to this subdivision shall be acknowledged in writing by the homeowner.

(g) This section does not apply to or supersede other provisions of this part or other state law.

CHAPTER 171

An act to add Section 836.6 to the Penal Code, relating to crimes.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 836.6 is added to the Penal Code, to read:

836.6. (a) It is unlawful for any person who is remanded by a magistrate or judge of any court in this state to the custody of a sheriff, marshal, or other police agency, to thereafter escape or attempt to escape from that custody.

(b) It is unlawful for any person who has been lawfully arrested by any peace officer and who knows, or by the exercise of reasonable care should have known, that he or she has been so arrested, to thereafter escape or attempt to escape from that peace officer.

(c) Any person who violates subdivision (a) or (b) is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed one year. However, if the escape or attempted escape is by force or violence, and the person proximately causes a peace officer serious bodily injury, the person shall be punished by imprisonment in the state prison for two, three, or four years, or by imprisonment in a county jail not to exceed one year.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. 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 172

An act to amend Sections 8152, 8153, and 8780 of, to add Section 8151 to, and to repeal Section 8780 of, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 8151 is added to the Fish and Game Code, to read:

8151. (a) Notwithstanding Section 8150.5, the tolerance for sardines taken incidentally to other fishing operations and mixed with other fish in a load shall be 25 percent if, using the mackerel fishery as an indicator, the overall percentage of incidentally taken sardines mixed with jack mackerel and Pacific mackerel during the preceding month exceeded 5 percent. Thereafter, the tolerance shall increase by additional 10-percent increments whenever the overall percentage of incidentally taken sardines during the preceding month exceeded one-third of the previously established tolerance. The overall percentage of incidentally taken sardines shall be determined monthly by dividing the weight of sardines taken incidentally with jack mackerel and Pacific mackerel by the weight of all jack mackerel, Pacific mackerel, and sardines taken by the mackerel fishery.

(b) If the overall percentage of incidentally taken sardines has been less than one-fourth of the tolerance in effect during the preceding three-month period and the tolerance has not been adjusted during this three-month period, the tolerance for incidentally taken sardines shall be decreased by deducting one 10-percent increment from the tolerance.

(c) Under no circumstances shall the tolerance be more than 45 percent or less than 15 percent.

(d) The department shall notify sardine permitholders, by mail, of any change in the status of the tolerance for incidentally taken sardines.

(e) The commission shall hold public hearings to consider the implementation of this section and shall report annually to the Legislature on the status of the sardine resource and may also make recommendations to the Legislature regarding this section or its implementation.

SEC. 2. Section 8152 of the Fish and Game Code is amended to read:

8152. (a) In addition to any other provision of this article, 350 tons of sardines may be taken and possessed for live bait purposes during any calendar year. The department may increase the

allowable take of sardines for live bait purposes above the 350-ton quota if it determines such an increase is warranted and consistent with Section 8150.7. Sardines may not be taken or possessed for live bait purposes except under a revocable, nontransferable permit issued by the department to a live bait fisherman upon application.

(b) The department shall keep records of the catch and when it appears that the sardine live bait quota will be taken, it shall notify all permitholders of the date when the quota will be taken, and after which no sardines may be taken under this section, and shall notify, by certified mail, all permittees of the closure.

(c) The permit may be revoked or suspended by the commission, when requested by the department, upon a conviction for a violation of this article.

(d) After the sardine live bait quota is taken, sardines may continue to be taken for live bait purposes, as provided for in Sections 8150.5 and 8151.

SEC. 2.5. Section 8153 of the Fish and Game Code is amended to read:

8153. (a) In addition to any other provision of this article, 250 tons of sardines may be taken, possessed, and landed for dead bait purposes during the period March 1 to February 28. Sardines may not be taken for dead bait purposes except by fishermen operating under permits issued by the department pursuant to Section 8150.7.

(b) Whenever the department, under Section 8150.7, establishes a quota of 2,500 tons or more for the sardine fishery, the quota for dead bait provided for in subdivision (a) shall be 500 tons.

(c) The take of sardines authorized by this section shall be allocated in the following manner:

(1) Sixty-two tons shall be reserved for fishermen landing sardines north of Pescadero Point.

(2) Sixty-two tons shall be reserved for fishermen landing their catches between Pescadero Point and San Simeon Point.

(3) The remaining quota shall be reserved for fishermen landing their catches south of San Simeon Point.

(d) Any fisherman taking or possessing sardines for use as dead bait shall be in possession of a bona fide, written, and dated order from the commercial fish business which placed the order for the sardines.

(e) Sardines taken, possessed, or sold for dead bait purposes shall be landed and kept in a whole condition until sold to a commercial fisherman or sportfisherman for use as bait.

(f) The fish receipt for any landing of sardines for dead bait purposes shall be completed at the time the landing is made and shall include the words "FOR DEAD BAIT PURPOSES ONLY" on the line designating use.

SEC. 3. Section 8780 of the Fish and Game Code, as amended by Section 10 of Chapter 1009 of the Statutes of 1988, is amended to read:

8780. (a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of

twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, sardines, squid, and smelt for bait only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

(d) No other species of fish may be taken on any boat carrying a bait net in District 19A, except that loads or lots of fish may contain not more than 18 percent by weight of the fish, of other bait fish species taken incidentally to other fishing operations and which are mixed with other fish in the load or lot.

SEC. 4. Section 8780 of the Fish and Game Code, as amended by Section 11 of Chapter 1009 of the Statutes of 1988, 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 retain protection for specified marine fish resources that are contained in existing law, it is necessary that this act take effect immediately.

CHAPTER 173

An act to amend Sections 17922, 18916, and 18941.5 of, and to add Section 18934.6 to, the Health and Safety Code, relating to buildings.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 17922 of the Health and Safety Code is amended to read:

17922. (a) Except as otherwise specifically provided by law, the

building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and the other rules and regulations, which are contained in Title 24 of the California Administrative Code, adopted, amended, or repealed from time to time pursuant to this chapter shall be adopted by reference, except that the building standards and rules and regulations shall include any additions or deletions made by the department. The building standards and rules and regulations shall impose substantially the same requirements as are contained in the most recent editions of the following uniform industry codes as adopted by the organizations specified:

(1) The Uniform Housing Code of the International Conference of Building Officials, except its definition of "substandard building."

(2) The Uniform Building Code of the International Conference of Building Officials.

(3) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(4) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(5) The National Electrical Code of the National Fire Protection Association. In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for publication in the State Building Standards Code and in promulgating other regulations, the department shall consider local conditions and any amendments to the uniform codes referred to in this section. Except as provided in Part 2.5 (commencing with Section 18901), in the absence of adoption by regulation, the most recent editions of the uniform codes referred to in this section shall be considered to be adopted one year after the date of publication of the uniform codes.

(6) Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(b) Except as provided in Section 17959.5, local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are hereby specifically and entirely reserved to the local jurisdictions notwithstanding any requirements found or set forth in this part.

(c) Regulations other than building standards which are adopted, amended, or repealed by the department, and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the State Building Standards Code and the other rules and

regulations of the department or alternative local standards adopted pursuant to subdivision (b) of Section 17920.7 or 17958.5 and does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements for new buildings or structures specified in this part, or in building standards published in the State Building Standards Code, or in the other rules and regulations adopted pursuant to this part. However, the additions and alterations shall not cause the building to exceed area or height limitations applicable to new construction.

(d) Regulations other than building standards which are adopted by the department and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 governing alteration and repair of existing buildings shall permit the use of alternate materials, appliances, installations, devices, arrangements, or methods of construction if the material, appliance, installation, device, arrangement, or method is, for the purpose intended, at least the equivalent of that prescribed in this part, the building standards published in the State Building Standards Code, and the rules and regulations promulgated pursuant to the provisions of this part in performance, safety, and for the protection of life and health. Regulations governing abatement of substandard buildings shall permit those conditions prescribed by Section 17920.3 which do not endanger the life, limb, health, property, safety, or welfare of the public or the occupant thereof.

(e) No local enforcement agency may prohibit the use of materials, appliances, installations, devices, arrangements, or methods of construction specifically permitted by the department to be used in the alteration or repair of existing buildings, but such materials, appliances, installations, devices, arrangements, or methods of construction may be specifically prohibited by local ordinance as provided pursuant to Section 17958.5.

(f) No local ordinance may permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the violation is a misdemeanor.

SEC. 2. Section 18916 of the Health and Safety Code is amended to read:

18916. "Model code" means any building code drafted by private organizations or otherwise, and shall include, but not be limited to, the latest edition of the following:

(a) The Uniform Building Code of the International Conference of Building Officials.

(b) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(c) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of

Plumbing and Mechanical Officials.

(d) The National Electrical Code of the National Fire Protection Association.

(e) The Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc.

(f) Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

SEC. 3. Section 18934.6 is added to the Health and Safety Code, to read:

18934.6. On or before January 1, 1993, the commission shall adopt, approve, codify, and publish by reference in the California Building Standards Code the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials to provide minimum standards for buildings specified in that appendix, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910) of Division 13.

SEC. 4. Section 18941.5 of the Health and Safety Code is amended to read:

18941.5. (a) The building standards contained in the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc., the Uniform Building Code of the International Conference of Building Officials, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the National Electrical Code of the National Fire Protection Association, the Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials as referenced in the California Building Standards Code shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(b) Amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to subdivision (c) or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(c) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards reasonably necessary because of local climatic, geological, or topographical conditions. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply

to that finding.

(d) No model code made applicable to any additional occupancy shall apply to any project which has been submitted for a building permit prior to the effective date of that model code.

SEC. 5. 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 174

An act to amend Section 25143.1 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 25143.1 of the Health and Safety Code is amended to read:

25143.1. (a) Any geothermal waste resulting from drilling for geothermal resources is exempt from the requirements of this chapter because the disposal of these geothermal wastes is regulated by the California regional water quality control boards.

(b) (1) Wastes from the extraction, beneficiation, and processing of ores and minerals that are not subject to regulation under Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code are exempt from the requirements of this chapter, except the requirements of Article 9.5 (commencing with Section 25208), as provided in paragraph (2).

(2) The wastes subject to this subdivision are subject to Article 9.5 (commencing with Section 25208) and Chapter 6.8 (commencing with Section 25300) if the wastes would otherwise be classified as hazardous wastes pursuant to Section 25117 and the regulations adopted pursuant to Section 25141.

(3) For purposes of this subdivision, the following definitions shall apply:

(A) "Wastes from the extraction, beneficiation, and processing of ores and minerals" means any of the following:

(i) Soil, waste rock, overburden, and any other solid, semisolid, or liquid natural materials that are removed, unearthed, or otherwise displaced as a result of excavating or recovering an ore or a mineral.

(ii) Residuals of ores or minerals after those ores or minerals have

been removed, unearthed, or otherwise displaced from their natural sites and physically or chemically treated or otherwise managed in order to separate or concentrate the commercial product present in the ore or mineral, or processed to produce a final marketable product.

(B) "Minerals" has the same meaning as defined in Section 2005 of the Public Resources 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 175

An act to add Section 15305.5 to the Probate Code, relating to trusts.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 15305.5 is added to the Probate Code, to read:

15305.5. (a) As used in this section, "restitution judgment" means a judgment awarding restitution for the commission of a felony or a money judgment for damages incurred as a result of conduct for which the defendant was convicted of a felony.

(b) If the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the restitution judgment out of all or part of those payments as they become due and payable, presently or in the future.

(c) Whether or not the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the restitution judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion,

determines to make to or for the benefit of the beneficiary.

(d) This section applies to a restitution judgment notwithstanding any provision in the trust instrument.

SEC. 2. This act applies to trusts and restitution judgments in existence on the effective date of this act, regardless of the date on which the trust was created, or takes effect, or the date on which the conduct giving rise to the restitution judgment occurred.

CHAPTER 176

An act to amend Section 11215 of, and to repeal Section 11216 of, the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 11215 of the Health and Safety Code is amended to read:

11215. (a) Except as provided in subdivision (b), any narcotic controlled substance employed in treating an addict for addiction shall be administered by :

(1) A physicianand surgeon.

(2) A registered nurse acting under the instruction of a physician and surgeon.

(3) A physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code acting under the patient-specific authority of his or her physician and surgeon supervisor approved pursuant to Section 3515 of the Business and Professions Code.

(b) When acting under the direction of a physician and surgeon, the following persons may administer methadone or other controlled substances orally in the treatment of an addict for addiction to a controlled substance:

(1) A psychiatric technician licensed pursuant to Chapter 10 (commencing with Section 4500) of Division 2 of the Business and Professions Code.

(2) A vocational nurse licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code.

(3) A pharmacist licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(c) Except as permitted in this section, no person shall order, permit, or direct any other person to administer a narcotic controlled substance to a person being treated for addiction to a controlled substance.

SEC. 2. Section 11216 of the Health and Safety Code is repealed.

CHAPTER 177

An act to amend Section 34501 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 34501 of the Vehicle Code is amended to read:

34501. (a) (1) The department shall adopt reasonable rules and regulations which, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The rules and regulations shall not, however, be applicable to schoolbuses, which shall be subject to rules and regulations adopted pursuant to Section 34501.5.

The rules and regulations shall exempt local law enforcement agencies, within a single county, engaged in the transportation of inmates or prisoners when those agencies maintain other motor vehicle operations records which furnish hours of service information on drivers which are in substantial compliance with the rules and regulations. This exemption does not apply to any local law enforcement agency engaged in the transportation of inmates or prisoners outside the county in which the agency is located, if that agency would otherwise be required, by existing law, to maintain driving logs.

(2) The commissioner shall appoint a committee of 15 members, consisting of representatives of industry subject to the regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed. The commissioner shall appoint a separate committee to advise the department on rules and regulations concerning wheelchair lifts for installation and use on buses, consisting of persons who use the wheelchair lifts, representatives of transit districts, representatives of designers or manufacturers of wheelchairs and wheelchair lifts, and representatives of the Department of Transportation.

(3) The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt regulations for the transportation of hazardous materials in this state, except the transportation of

materials which are subject to other provisions of this code, that the department determines are reasonably necessary to ensure the safety of persons and property using the highways. The regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that the shipments are correctly identified and in proper conditions for transport.

(c) At least once every 13 months, the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus. If the bus operation includes more than 100 buses, the inspection shall be without prior notice.

(d) The commissioner shall adopt and enforce regulations which will make the public or private users of any bus aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of this code or regulations adopted pursuant to this section.

CHAPTER 178

An act to amend Section 44975 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 July 26, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 44975 of the Food and Agricultural Code is amended to read:

44975. (a) Each handler of avocados shall pay to the director an inspection and certification fee each month. The fee shall be based on the number of pounds certified as determined by the director. However, in no event shall the fee be greater than twenty-five cents ($0.25) per hundredweight of pounds prepared for market for the period of July 1, 1990 through June 30, 1992. Commencing July 1, 1992, the fee shall be not greater than eighteen cents ($0.18) per hundredweight of pounds prepared for market. The number of pounds certified shall be reported monthly to the director, and these reports shall include all information required by the director. The fee required by this section shall be paid no later than the 10th day of the month following the month for which the fee is payable. Any

handler who fails to pay the fee within the time required shall pay the director a penalty of 10 percent of the amount determined to be due, and, in addition, 1½ percent interest per month on the unpaid balance. The director may adjust the fee from time to time and reduce it whenever he finds the cost of administering this article may be defrayed from revenue derived from lower fees.

(b) Notwithstanding subdivision (a), whenever the fees derived from pounds certified do not cover the cost of inspection, the director may establish hourly and mileage rates for inspection and certification of avocados based upon the cost of providing that inspection and certification. However, alternatively, a handler may present his or her avocados for inspection and certification on a date, time, and location specified by the director and pay the fees charged 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:

It is necessary to immediately extend the existing maximum fee rate on avocados prepared for markets for an additional 12-month period to maintain an adequately funded inspection and certification program that would otherwise be underfunded due to fruit loss from the December 1990, freeze. In order for this act to take effect in time to allow this fee rate to continuously apply for the extended period, it is necessary that this act take effect immediately.

CHAPTER 179

An act to amend Section 977.2 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991]

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 six 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 audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. If the defendant is represented by counsel, the attorney shall be present with the defendant, 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. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right.

(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 audiovideo 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 audiovideo 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. A judge may, pursuant to this section, accept a plea of guilty or no contest from a defendant who is 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.

CHAPTER 180

An act to amend Sections 270, 500, 1202, 1205, and 4828 of the Financial Code, relating to financial institutions, and making an appropriation therefor.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 270 of the Financial Code is amended to read:

270. The superintendent shall annually collect pro rata from the banks and trust companies under the supervision of the department a fund in amount sufficient in the superintendent's judgment to meet the expenses of the department and a reasonable reserve for contingencies.

The amount of the annual assessment for the fund on any bank or trust company shall not be less than five thousand dollars ($5,000). Above that minimum amount, the annual assessment shall not exceed the sum of the products of a base assessment rate, or fraction thereof, and segregated portions of its total resources, according to the following table:

Segregated Total Resources (In Millions or Fractions Thereof)	Percentage of Base Assessment Rate
First $1	100.0
Next $9	33.0
Next $40	15.0
Next $50	7.5
Next $400	5.0
Next $500	4.5
Next $2,000	4.0
Next $7,000	3.4
Next $10,000	3.2
Excess over $20,000	2.1

The base assessment rate shall be set by the superintendent from time to time at the superintendent's discretion, not to exceed two dollars and twenty cents ($2.20) per one thousand dollars ($1,000) of total resources.

SEC. 2. Section 500 of the Financial Code is amended to read:

500. (a) In this article, "branch office" means any branch office other than an automated teller machine branch office as defined in Section 550.

(b) When authorized by the superintendent as provided in this chapter, a bank or trust company, with the approval of its board, may establish and maintain one or more branch offices.

SEC. 3. Section 1202 of the Financial Code is amended to read:

1202. A commercial bank may borrow money by discounting or otherwise, and may borrow money secured by real property owned by the bank, to an amount not in excess of its shareholders' equity, but shall not borrow money except as provided in Sections 1204 and 1205 in excess of such amount without the prior written approval of the superintendent.

The amounts of moneys so borrowed by a commercial bank together with the amount of any of its deposits secured by surety bonds shall not at any one time exceed the amount of its shareholders' equity without the prior written approval of the superintendent.

SEC. 4. Section 1205 of the Financial Code is amended to read:

1205. A commercial bank may rediscount with, borrow money from, or hypothecate its assets as security for money borrowed from a Federal Reserve bank, the Federal Deposit Insurance Corporation, or the Federal Home Loan Bank.

SEC. 5. Section 4828 of the Financial Code is amended to read:

4828. Notwithstanding any other provision of law:

(a) If, as a result of any sale, merger, or conversion effected pursuant to the provisions of this division, a state bank acquires any asset or liability, or becomes engaged in any activity which was permitted to the selling, disappearing, or converting savings and loan association but which is prohibited to state banks, the superintendent may permit the state bank a reasonable period of time, not to exceed 12 months, within which to divest itself of the asset, liability, or activity or to conform it to law. On a case-by-case basis, the superintendent may permit the state bank a reasonable period of time in excess of 12 months on a showing by the bank that it cannot reasonably accomplish the divestment or conformity within the 12-month period.

(b) If, as a result of a sale, merger, or conversion effected pursuant to the provisions of this division, a state savings and loan association acquires any asset or liability, or becomes engaged in any activity which was permitted to the selling, merging, or converting bank but which is prohibited to state savings and loan associations, the commissioner may permit the savings and loan association a reasonable period of time, not to exceed 12 months, within which to divest itself of the asset, liability, or activity or to conform it to law. On a case-by-case basis, the commissioner may permit the state savings and loan association a reasonable period of time in excess of 12 months on a showing by the savings and loan association that it cannot reasonably accomplish the divestment or conformity within the 12-month period. However, the commissioner may not, pursuant to this subdivision, permit the state savings and loan association to accept or maintain any deposit account which is not permitted to state savings and loan associations.

CHAPTER 181

An act to amend Section 6252 of the Government Code, relating to the California Public Records Act.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 6252 of the Government Code is amended to read:

6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit organizations of local governmental agencies and officials which are supported solely by public funds.

(c) "Person" includes any natural person, corporation, partnership, firm, or association.

(d) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(f) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

CHAPTER 182

An act to amend Section 14002 of the Elections Code, relating to elections.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 14002 of the Elections Code is amended to read:

14002. (a) For each statewide election, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75 percent of registered voters in the precinct, and for absentee and emergency purposes shall provide such additional number of ballots as may be necessary.

The number of party ballots to be furnished to any precinct for a primary election shall be computed from the number of voters registered in that precinct as intending to affiliate with a party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in that precinct without statement of intention to affiliate with any of the parties participating in the primary election.

(b) For all other elections, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75 percent of the number of registered voters in the precinct, and for absentee and emergency purposes shall provide such additional number of ballots as may be necessary.

CHAPTER 183

An act to amend Sections 1026.2 and 1026.5 of the Penal Code, relating to judicially committed persons.

[Approved by Governor July 26, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 1026.2 of the Penal Code, as amended by Section 1 of Chapter 1343 of the Statutes of 1987, is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as

provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600). The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). However, a county jail may not be designated unless the services specified in subdivision (b) are provided and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application shall be allowed until the person committed has been confined or placed on outpatient status for a period of not less than 180 days from the date of the order of commitment.

(e) The court shall hold a hearing to determine if the person applying for restoration of sanity would no longer be a danger to the health and safety of others, including himself or herself, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, including himself or herself, while under supervision and treatment in the community, the court shall order the applicant placed with an appropriate forensic conditional release program for one year. All or a substantial portion of the program shall include outpatient supervision and treatment. The court shall retain

jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, including himself or herself. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate forensic conditional release program. The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(f) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate forensic conditional release program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(g) Before placing an applicant in an appropriate forensic conditional release program, the community program director shall submit to the court a written recommendation as to what forensic conditional release program is the most appropriate for supervising and treating the applicant. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the court record. Sections 1605 to 1610, inclusive, shall be applicable to the person placed in the forensic conditional release program unless otherwise ordered by the court.

(h) If the court determines that the person should be transferred to an appropriate forensic conditional release program, the community program director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

(i) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless the applicant does not meet all of the requirements of Section 1603.

(j) If the court denies the application to place the person in an appropriate forensic conditional release program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(k) In any hearing authorized by this section, the applicant shall have the burden of proof by a preponderance of the evidence.

(*l*) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or of the

community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

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

SEC. 2. Section 1026.5 of the Penal Code is amended to read:

1026.5. (a) (1) In the case of any person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3.

(2) In the case of a person confined in a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony prior to July 1, 1977, and who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b). The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court. However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of September 28, 1979. Within 90 days of the date the person is received by the state hospital or other treatment facility, or of September 28, 1979, whichever is later, the Board of Prison Terms shall provide each person with the determination of the person's maximum term of commitment or shall notify the person that a hearing will be scheduled to determine the term.

Within 20 days following the determination of the maximum term

of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other treatment facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604 who committed a misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other treatment facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b) (1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if the person has been committed under Section 1026 for a felony and by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) Not later than 180 days prior to the termination of the maximum term of commitment prescribed in subdivision (a), the medical director of a state hospital in which the person is being treated, or the medical director of the person's treatment facility or the local program director, if the person is being treated outside a state hospital setting, shall submit to the prosecuting attorney his or her opinion as to whether or not the patient is a person described in paragraph (1). If requested by the prosecuting attorney, the opinion shall be accompanied by supporting evaluations and relevant hospital records. The prosecuting attorney may then file a petition for extended commitment in the superior court which issued the original commitment. The petition shall be filed no later than 90 days before the expiration of the original commitment unless good cause is shown. The petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in paragraph (1).

(3) When the petition is filed, the court shall advise the person named in the petition of the right to be represented by an attorney and of the right to a jury trial. The rules of discovery in criminal cases shall apply. If the person is being treated in a state hospital when the petition is filed, the court shall notify the community program director of the petition and the hearing date.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 calendar days prior to the time the person would

otherwise have been released, unless that time is waived by the person or unless good cause is shown.

(5) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee, and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the petition for extended commitment. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(6) A designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). However, a county jail may not be designated unless the services specified in paragraph (5) are provided and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(7) The person shall be entitled to the rights guaranteed under the federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity.

(8) If the court or jury finds that the patient is a person described in paragraph (1), the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed. This commitment shall be for an additional period of two years from the date of termination of the previous commitment.

(9) A person committed under this subdivision shall be eligible for release to outpatient status pursuant to the provisions of Title 15 (commencing with Section 1600) of Part 2.

(10) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the

patient remains a person described in paragraph (1). The recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(11) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

CHAPTER 184

An act to add Part 2.1 (commencing with Section 10520) to Division 6 of the Water Code, relating to water.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Part 2.1 (commencing with Section 10520) is added to Division 6 of the Water Code, to read:

PART 2.1. AGRICULTURAL WATER CONSERVATION AND MANAGEMENT ACT OF 1992

10520. This part shall be known and may be cited as the Agricultural Water Conservation and Management Act of 1992.

10521. Unless the context otherwise requires, the following definitions govern the construction of this part:

(a) "Water conservation" means the reduction of the amount of water consumed or irretrievably lost in the process of satisfying beneficial uses which can be achieved either by improving the technology or the method for diverting, transporting, applying, reusing, salvaging, or recovering water, or by implementing other conservation methods.

(b) "Efficient water management" means reasonable and economically justifiable programs to improve the delivery and use of water for agricultural purposes that will result in water conservation.

(c) "Water supplier" means the department or other public agency that supplies water for agricultural use.

10522. A water supplier, individually or in cooperation with other public agencies or persons, may institute a water conservation or efficient water management program, including, but not limited to, all of the following components:

(a) Providing irrigation and other water use management services to persons served by the water supplier, including, but not limited to, all of the following services:

(1) Providing information on historic and current crop water use data for crops grown in the area served by the water supplier, including evapotranspiration and leaching requirements of those

crops.

(2) Providing irrigation consulting services to monitor on-farm water use practices and to provide information to improve on-farm water management.

(3) Monitoring salinity to obtain favorable salt balances.

(4) Recommending more efficient techniques for preplanting irrigation of the crop root zone.

(5) Providing evaluations of the operation and efficiency of individual on-farm irrigation systems and animal sanitation systems and similar uses, and making recommendations for improvement of those systems.

(6) Providing irrigation management improvement services during the growing season.

(b) Making physical and structural improvements to the water supplier's delivery system, and aiding in the improvement of on-farm systems, including, but not limited to, all of the following improvements:

(1) Using flow measuring devices in the delivery system and providing to farmers, or assisting farmers in the use of, on-farm flow measurement devices.

(2) Lining ditches and canals or providing pipelines in the supplier's delivery system and helping farmers to take these actions, except where seepage is desirable for groundwater recharge or environmental purposes.

(3) Evaluating the storage, conveyance, and drainage systems of the water supplier and the farmers served by the water supplier and the application systems of the farmers served by the water supplier to maximize efficient water management.

(4) Assisting farmers technically and financially with installation and operation of on-farm conservation equipment if the installation and operation is economically feasible for the water supplier.

(c) Making institutional and operational adjustments, including, but not limited to, all of the following adjustments:

(1) Allowing changes or flexibility in the water contract year to more closely fit water-use characteristics of the crops being grown.

(2) Establishing a pricing structure for water delivered to encourage conservation.

(3) Maximizing flexibility, to the extent economically and otherwise feasible, in water delivery to farmers to enable them to optimize their irrigation efficiency.

(4) Developing education programs for farmers relating to on-farm conservation.

(5) Promoting or developing conjunctive use programs for use of groundwater and surface water.

(6) Encouraging voluntary exchanges of water between water suppliers which have surplus water and suppliers which have a water shortage.

10523. In formulating a water conservation or efficient water management program, a water supplier may take into account the

positive or negative effect of the program, or any of its parts, on other factors, including, but not limited to, all of the following:

(a) The productivity of agricultural land served by the water supplier or other lands.

(b) The quality of groundwater or surface water.

(c) Fish and wildlife or other environmental values.

(d) Recreational uses.

(e) Surface and subsurface drainage discharge.

(f) The salt balance.

(g) Groundwater overdrafting.

(h) Peak and total energy use.

(i) The cost of water and the economics of farming.

(j) Water supply to other users.

CHAPTER 185

An act to amend Sections 17300, 17302, 17304, and 17310 of the Government Code, relating to state finances, and making an appropriation therefor.

[Approved by Governor July 26, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 17300 of the Government Code is amended to read:

17300. Whenever the Controller determines that moneys in the General Fund are, or are expected to be, insufficient for the payment of all appropriations by the Legislature which are required to be paid in the then current fiscal year out of the General Fund, the Controller, based upon his or her estimate of the probable income to the General Fund during the then current fiscal year and the probable dates of receipt thereof, may draw a demand or demands against appropriations made from the General Fund to be paid in the then current fiscal year prior to the receipt of the income, and deliver the demand or demands to the Treasurer. The Treasurer shall register the demand or demands for nonpayment and may issue notes by resolution pursuant to Section 17302.

SEC. 2. Section 17302 of the Government Code is amended to read:

17302. Notes shall be issued pursuant to this part only to raise funds in an amount sufficient to satisfy the Controller's registered demand or demands. The issuance of any notes pursuant to this part shall be authorized by a resolution adopted by the Treasurer with the approval of the Controller and the Director of Finance. Any note (a) may be negotiable, (b) may be payable to order or to bearer, (c) may be in any denomination, (d) shall be payable not later than 120 days

after the end of the fiscal year in which the note has been issued and shall not be renewable beyond that date, (e) may bear fixed or variable interest at a rate or rates to be determined as provided by the resolution and payable as provided therein, (f) may be payable on a fixed date or upon demand of the holder of the note, (g) may be made subject to prepayment or redemption at the option of the state or at the option of the holder, and (h) may have a term not exceeding 12 months.

SEC. 3. Section 17304 of the Government Code is amended to read:

17304. Any revenues in the General Fund are available for the payment of all notes and the interest thereon until the notes and the interest thereon shall be fully paid and discharged. The notes, together with the interest thereon, shall be payable exclusively from moneys in the General Fund , but not excepting recourse to internal borrowing from other funds in the event insufficient moneys are available from the General Fund.

SEC. 4. Section 17310 of the Government Code is amended to read:

17310. Notwithstanding Section 13340, there is hereby appropriated from the General Fund any unapplied money, as defined in Section 17220, in any amounts necessary to pay the interest on, and the principal of, any notes issued pursuant to this part, as the notes become due and payable.

CHAPTER 186

An act to amend Section 1126 of, to repeal Sections 650, 650.5, 784a, 964, 1125, and 4572 of, to repeal Chapter 11 (commencing with Section 258) of Title 8 of Part 1 of, and to repeal Article 4 (commencing with Section 11400) of Chapter 3 of Title 1 of Part 4 of, the Penal Code, relating to crimes.

[Approved by Governor July 26, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. The Legislature finds and declares that every person has the right to speak out, to poke fun, and to stir up controversy without fear of criminal prosecution. The Legislature finds and declares that the continued existence of vague laws on the books is an invitation to their unconstitutional use, at the peril of civil liberties.

SEC. 2. Chapter 11 (commencing with Section 258) of Title 8 of Part 1 of the Penal Code is repealed.

SEC. 3. Section 650 of the Penal Code is repealed.

SEC. 4. Section 650.5 of the Penal Code is repealed.

SEC. 5. Section 784a of the Penal Code is repealed.

SEC. 6. Section 964 of the Penal Code is repealed.

SEC. 7. Section 1125 of the Penal Code is repealed.

SEC. 8. Section 1126 of the Penal Code is amended to read:

1126. In a trial for any offense , questions of law are to be decided by the court, and questions of fact by the jury. Although the jury has the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive as law what is laid down as such by the court.

SEC. 9. Section 4572 if the Penal Code is repealed.

SEC. 10. Article 4 (commencing with Section 11400) of Chapter 3 of Title 1 of Part 4 of the Penal Code is repealed.

CHAPTER 187

An act to amend Sections 13050 and 13241 of, and to add Chapter 7.5 (commencing with Section 13575) to Division 7 of, the Water Code, relating to water.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 13050 of the Water Code is amended to read:

13050. As used in this division:

(a) "State board" means the State Water Resources Control Board.

(b) "Regional board" means any California regional water quality control board for a region as specified in Section 13200.

(c) "Person" also includes any city, county, district, the state or any department or agency thereof. "Person" includes the United States, to the extent authorized by federal law.

(d) "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

(e) "Waters of the state" means any water, surface or underground, including saline waters, within the boundaries of the state.

(f) "Beneficial uses" of the waters of the state that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish,

wildlife, and other aquatic resources or preserves.

(g) "Quality of the water" or "quality of the waters" refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.

(h) "Water quality objectives" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.

(i) "Water quality control" means the regulation of any activity or factor which may affect the quality of the waters of the state and includes the prevention and correction of water pollution and nuisance.

(j) "Water quality control plan" consists of a designation or establishment for the waters within a specified area of all of the following:

(1) Beneficial uses to be protected.

(2) Water quality objectives.

(3) A program of implementation needed for achieving water quality objectives.

(k) "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(*l*) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(1) The waters for beneficial uses.

(2) Facilities which serve these beneficial uses.

"Pollution" may include "contamination."

(m) "Nuisance" means anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during or as a result of the treatment or disposal of wastes.

(n) "Reclaimed water" or "recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefor considered a valuable resource.

(o) "Citizen or domiciliary" of the State of California includes a foreign corporation having substantial business contacts in the State of California or which is subject to service of process in this state.

(p) (1) "Hazardous substance" means either of the following:

(A) For discharge to surface waters, any substance determined to be a hazardous substance pursuant to Section 311 (b) (2) of the Clean Water Act (33 U.S.C. Section 1251 et seq.).

(B) For discharge to groundwater, any substance listed as a hazardous waste or hazardous material pursuant to Section 25140 of the Health and Safety Code, without regard to whether the substance is intended to be used, reused, or discarded, except that "hazardous substance" shall not include any substance excluded from the applicability of Section 311 (b) (2) of the Clean Water Act because it is within the scope of Section 311 (a) (1) of the Clean Water Act.

(2) "Hazardous substance" does not include any of the following:

(A) Nontoxic, nonflammable, noncorrosive stormwater runoff drained from underground vaults, chambers, or manholes into gutters or storm sewers.

(B) Any pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 2426 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.

(C) Any discharge to surface water of a quantity less than a reportable quantity as determined by regulations issued pursuant to Section 311 (b) (4) of the Clean Water Act.

(D) Any discharge to land which results or probably will result in a discharge to groundwater where the amount of the discharge to land is less than a reportable quantity, as determined by regulations issued pursuant to Section 13271, for substances listed as hazardous pursuant to Section 25140 of the Health and Safety Code. No discharge shall be deemed a discharge of a reportable quantity until regulations set a reportable quantity for the substance discharged.

(q) "Mining waste" means all solid, semisolid, and liquid waste materials from the extraction, beneficiation, and processing of ores and minerals. Mining waste includes, but is not limited to, soil, waste rock, and overburden, as defined in Section 2732 of the Public Resources Code, and tailings, slag, and other processed waste materials.

SEC. 2. Section 13241 of the Water Code is amended to read:

13241. Each regional board shall establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following:

(a) Past, present, and probable future beneficial uses of water.

(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.

(c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.

(d) Economic considerations.

(e) The need for developing housing within the region.

(f) The need to develop and use recycled water.

SEC. 3. Chapter 7.5 (commencing with Section 13575) is added to Division 7 of the Water Code, to read:

CHAPTER 7.5. WATER RECYCLING ACT OF 1991

13575. This chapter shall be known and may be cited as the Water Recycling Act of 1991.

13576. The Legislature hereby makes the following findings and declarations:

(a) The State of California is in a fifth year of drought, with three of the past four years being critically dry.

(b) The development of traditional water resources in California has not kept pace with the state's population, which is growing at the rate of over 700,000 per year and which is anticipated to reach 36 million by the year 2010.

(c) There is a need for a reliable source of water for uses not related to the supply of potable water to protect investments in agriculture, greenbelts, and recreation and to protect and enhance fisheries, wildlife habitat, and riparian areas.

(d) The environmental benefits of recycled water include a reduced demand for water in the Sacramento-San Joaquin Delta which is otherwise needed to maintain water quality, reduced discharge of waste into the ocean, and the enhancement of recreation, fisheries, and wetlands.

(e) The use of recycled water has proven to be safe from a public health standpoint, and the State Department of Health Services is updating regulations for the use of recycled water.

(f) The use of recycled water is a cost-effective, reliable method of helping to meet California's water supply needs.

(g) The development of the infrastructure to distribute recycled water will provide jobs and enhance the economy of the state.

13577. This chapter establishes a statewide goal to recycle a total of 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010.

CHAPTER 188

An act to amend and renumber the heading of Chapter 12 (commencing with Section 8870) and Chapter 13 (commencing with Section 8890) of Division 1 of Title 2 of, and to amend and renumber Sections 8870, 8871, 8872, 8873, 8874, 8874.5, 8890, 8891, 8892, 8892.5, 8893, 8893.5, 8894, 8895, 8895.1, 8896, 8897, 8897.1, 8897.5, 8899, and 8899.2 of, the Government Code, relating to earthquake safety.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. The heading of Chapter 12 (commencing with Section 8870) of Division 1 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 12.1. THE CALIFORNIA EARTHQUAKE HAZARDS REDUCTION ACT

SEC. 2. Section 8870 of the Government Code is amended and renumbered to read:

8871. The Legislature finds and declares as follows:

(a) California is situated on the rim of the Circum-Pacific seismic belt and it is inevitable that earthquakes along the state's numerous faults will cause extensive property damage and endanger the lives of people nearby. The risk to life and property is especially significant near the San Andreas fault where rapid growth and population increases have occurred in our largest urban centers over the last several decades. With each passing year, the potential for an earthquake-caused catastrophe increases as California's growth continues and the time lengthens since the last great earthquake.

(b) Earthquakes have caused and can cause in the future enormous loss of life, injury, destruction of property, and economic and social disruption. With respect to future earthquakes, that loss, injury, destruction, and disruption can be reduced substantially by developing and implementing earthquake hazards reduction measures, including, but not limited to, the following:

(1) Improving design and construction methods and practices.

(2) Rehabilitating hazardous buildings.

(3) Coordinating emergency planning for response by the government and private sectors.

(4) Implementing land use and redevelopment planning.

(5) Developing public information and education programs.

(6) Improving emergency response capabilities and emergency management systems.

(7) Developing long-term social and economic recovery strategies.

(8) Upgrading the strong motion instrumentation system.

(9) Improving basic research of physical and social earthquake phenomena.

(c) While the major responsibility for dealing with earthquakes before and after they happen is firmly fixed with local government, state government also has fundamental responsibilities to take all reasonable measures to reduce the seismic hazards to which the citizens of California are exposed. The state should assume a leadership role by influencing the direction of existing and future national earthquake hazard reduction programs and should serve as a model for local hazard reduction measures.

(d) Earthquake hazard reduction measures often benefit many state programs and bring about improvements in buildings, dams, transportation facilities, communications, fire safety, toxic materials handling, and emergency response preparations.

(e) Over the past 10 years, numerous studies have been completed by the Seismic Safety Commission, the Office of Emergency Services, the California Division of Mines and Geology, the Governor's Earthquake Task Force, the federal government, and private sector organizations recommending improvements in hazard mitigation programs to reduce the earthquake threat in California. Implementing recommendations from these studies will reduce earthquake hazards, improve earthquake disaster response, and guide reconstruction and recovery efforts.

SEC. 3. Section 8871 of the Government Code is amended and renumbered to read:

8871.1. This chapter shall be known and may be cited as The California Earthquake Hazards Reduction Act of 1986.

SEC. 4. Section 8872 of the Government Code is amended and renumbered to read:

8871.2. (a) There is hereby established a coordinated program pursuant to which the state shall implement new and expanded activities to significantly reduce the earthquake threat to its citizens. This program, to be known as the California Earthquake Hazard Reduction Program, shall be prepared and administered by the Seismic Safety Commission pursuant to its existing authority under Section 8870.7.

(b) The program set forth in subdivision (a) shall specify priorities, funding sources, and amounts, schedules, and other resources needed to significantly reduce earthquake hazards statewide by January 1, 2000. The achievement of this goal shall be undertaken with the following objectives:

(1) Mitigation. The reduction of the earthquake hazard to acceptable levels through significant reduction in the number of hazardous buildings and the expansion of scientific and engineering studies.

(2) Preparedness. The increase in the level of preparedness statewide by appropriate measures to deal with special issues, such as earthquake prediction, hazardous materials, critical facilities, and

disaster preparedness plans for all major population centers, and education, training, and public information.

(3) Response. The enhancement of the state's capability to respond to a major earthquake disaster by giving priority to increased coordination and integration of federal, state, and local plans and preparedness activities, improvements in the statewide communication system, creation of a state emergency coordination center or centers, and greater automation of emergency management data.

(4) Recovery. The development of management systems for major earthquake recovery, the enhancement of resources management, and the minimization of high unemployment, multiple business failures, tax base erosion, and associated monetary and financial issues critical to the restoration of California's economy and public services.

(c) The state's existing seismic safety activities are currently administered by over two dozen separate agencies. Responsibility for administering these activities shall remain with these agencies. These existing activities shall continue and shall be incorporated into the coordinated program established under subdivision (a).

(d) The program shall consist of a series of five-year programs and each five-year program shall be revised by the Seismic Safety Commission annually and submitted to the Governor and the Legislature. Each revision shall include a finding on the state's progress toward the goal stated in subdivision (b).

(e) The immediate steps to be undertaken by the commission shall include the performance of existing activities provided in the budget prepared by the Governor for the 1985–86 fiscal year and the Budget Act of 1985 and the preparation of the first five-year program.

(f) The first five-year program document shall be completed by September 1, 1986, and shall include specific measures and funding needed for adequate progress towards the state's earthquake safety goals by January 1, 2000. This program and subsequent programs shall cover a five-year implementation period and shall recommend any necessary statutory changes for program implementation.

SEC. 5. Section 8873 of the Government Code is amended and renumbered to read:

8871.3. (a) The Office of Emergency Services shall establish an interim state operations center in southern California to coordinate response to a major earthquake. The office shall also develop an operational communications plan for the center based upon an inventory of current communications capabilities and an assessment of structural vulnerabilities.

(b) The office shall undertake a design analysis regarding construction of a permanent state operations center in southern California, including an evaluation of telecommunications and information technology systems for emergency management functions.

(c) All appropriations for the purposes of subdivision (a) or (b)

shall be reviewed by the Department of Finance prior to obligation of funds.

SEC. 6. Section 8874 of the Government Code is amended and renumbered to read:

8871.4. The commission shall prepare the California Earthquake Hazard Reduction Program, in consultation with the Office of Emergency Services, the Division of Mines and Geology in the Department of Conservation, the Office of the State Architect, the Emergency Medical Services Authority, the University of California and other appropriate institutions of higher learning, the California National Guard, the Department of Finance, other appropriate state and local agencies, the private sector, volunteer groups, and the Legislature.

The commission may hold public hearings or joint hearings with other groups and conduct other activities as necessary for the development of the program.

SEC. 7. Section 8874.5 of the Government Code is amended and renumbered to read:

8871.5. The disastrous effects and after effects of the Mexico City earthquake of September 19, 1985, have increased the urgency for development of local plans to provide authority and procedures for orderly transition from emergency disaster response operations to short- and long-range efforts toward reestablishment of governmental services, private business activity, and reconstruction and rehabilitation.

In furtherance of that purpose, the commission shall enter into a grant agreement with a local agency situated in a high earthquake-hazard area for development of a program model for use by local agencies and the state which will address at least, but need not be limited to, the following elements:

(a) Establishment of a coordinating body within the jurisdiction to assess the various impacts of the disaster, recommend appropriate legislative, administrative, and private actions, and monitor implementation efforts.

(b) Creation of an information-gathering mechanism to provide the basis for evaluation, prioritization, and implementation.

(c) Procedures for coordination and orderly transition from disaster response to reconstruction and rehabilitation.

(d) Identification, delineation, and preparation of legislation, both statutory and local, necessary to provide authority on a preevent basis for postevent activity to accomplish the purposes of this program.

(e) Integration and coordination with this chapter, the California Emergency Services Act (Chapter 7 (commencing with Section 8550)), the Natural Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680)), the Economic Disaster Act of 1984 (Chapter 7.6 (commencing with Section 8695)), the Planning and Zoning Law (Title 7 (commencing with Section 65000)), the Community Redevelopment Law (Part 1 (commencing with

Section 33000) of Division 24 of the Health and Safety Code), and the Community Development Financial Assistance and Disaster Project Law (Part 1.5 (commencing with Section 34000) of Division 24 of the Health and Safety Code).

(f) Identification of those components of the local program which may serve as a program model for disasters other than those caused by earthquake.

SEC. 8. The heading of Chapter 13 (commencing with Section 8890) of Division 1 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 12. SEISMIC SAFETY COMMISSION ACT

SEC. 9. Section 8890 of the Government Code is amended and renumbered to read:

8870. The Legislature finds and declares as follows:

The work of the Legislature's Joint Committee on Seismic Safety as well as that of the Governor's Earthquake Council provides impressive and wide-ranging evidence for the following:

First, many different agencies at various levels of government have substantial responsibilities in the fields of earthquake preparedness and seismic safety.

Second, there is a pressing need to provide a consistent policy framework and a means for coordinating on a continuing basis the earthquake-related programs of agencies at all governmental levels and their relationships with elements of the private sector involved in practices important to seismic safety. This need is not being addressed by any continuing state government organization.

Third, through concerted efforts of broad scope, coordinated by a Seismic Safety Commission, long-term progress should be made toward higher levels of seismic safety.

Fourth, it is not the purpose of this chapter to transfer to the commission the authorities and responsibilities now vested by law in state and local agencies.

SEC. 10. Section 8891 of the Government Code is amended and renumbered to read:

8870.1. There is created in the state government a Seismic Safety Commission which shall report annually to the Governor and to the Legislature on its findings, progress, and recommendations relating to earthquake hazard reduction.

SEC. 11. Section 8892 of the Government Code is amended and renumbered to read:

8870.2. (a) The commission shall consist of 15 members appointed by the Governor and confirmed by the Senate, one member appointed by the Senate Rules Committee, and one member appointed by the Speaker of the Assembly. The Seismic Safety Commission shall elect annually from its membership its own chairperson and vice chairperson and may replace them with other commissioners by majority vote. Commission members shall be

residents of California.

(b) A quorum shall consist of nine members if there are no vacancies, or else a majority of the members of the commission at the time.

(c) The Legislature declares that the individuals appointed to the commission are intended to represent the professions of architecture, planning, fire protection, public utilities, electrical engineering, mechanical engineering, structural engineering, soils engineering, geology, seismology, local government, insurance, social services, emergency services, and the Legislature and that such representation serves the public interest. Accordingly, the Legislature finds that for purposes of persons who hold this office the specified professions are tantamount to and constitute the public generally within the meaning of Section 87103.

SEC. 12. Section 8892.5 of the Government Code is amended and renumbered to read:

8870.25. The initial Seismic Safety Commission membership shall consist of seven members appointed by the Governor from a list of not more than 16 nominees submitted to the Governor by the Chairman of the Joint Committee on Seismic Safety, seven members appointed by the Governor from a list of nominees submitted to the Governor by the Governor's Earthquake Council, an initial chairperson appointed by the Governor from a nominee mutually agreed upon by the Chairman of the Joint Committee on Seismic Safety and the Chairman of the Governor's Earthquake Council, and one Member of the Senate appointed by the Senate Rules Committee and one Member of the Assembly appointed by the Speaker of the Assembly.

SEC. 13. Section 8893 of the Government Code is amended and renumbered to read:

8870.3. After the initial appointments, the membership of the Seismic Safety Commission shall be appointed by the Governor and confirmed by the Senate from lists of nominees submitted by organizations as listed below:

(a) Four members appointed from established organizations in the fields of architecture and planning, fire protection, public utilities, and electrical engineering and mechanical engineering;

(b) Four members appointed from established organizations in the fields of structural engineering, soils engineering, geology, and seismology;

(c) Four members appointed from nominees submitted by the League of California Cities and the County Supervisors Association of California;

(d) Three members appointed from established organizations in the fields of insurance, social service, and emergency services;

(e) One member shall be appointed from the Senate by the Senate Rules Committee, and one member shall be appointed from the Assembly by the Speaker of the Assembly. Each of the members appointed pursuant to this subdivision may designate an alternate

who shall be counted toward a quorum, who may vote, and who may receive the expenses specified in Section 8870.4.

SEC. 14. Section 8893.5 of the Government Code is amended and renumbered to read:

8870.35. The term of office for each member of the Seismic Safety Commission shall be four years and each shall hold office until the appointment and qualification of his or her successor, except that of the initial commissioners, the Governor shall appoint seven members whose terms will expire two years after appointment and seven members plus the chairperson whose terms shall expire four years after appointment. All initial appointments shall be made by July 1, 1975. Any vacancies shall be immediately filled by the appointing power for the unexpired portion of the term in which they occur.

SEC. 15. Section 8894 of the Government Code is amended and renumbered to read:

8870.4. The members of the Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of fifty dollars ($50) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by the State Board of Control.

SEC. 16. Section 8895 of the Government Code is amended and renumbered to read:

8870.5. The commission, in the discharge of its responsibilities, may do any of the following:

(a) Accept grants, contributions, and appropriations from public agencies, private foundations, or individuals.

(b) Appoint committees from its membership, appoint advisory committees from interested public and private groups, and appoint ex officio members who shall not be entitled to vote, to advise the commission.

(c) Contract for or employ, with the approval of the Director of Finance, any professional services and research required by the commission or required for the performance of necessary work and services which, in the commission's opinion, cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(d) Enter into agreements to act cooperatively with private nonprofit scientific, educational, or professional associations or foundations engaged in promoting seismic safety in California, including activities under the California Earthquake Education Act of 1984 (Chapter 11 (commencing with Section 2805) of Division 2 of the Public Resources Code). These associations or foundations may furnish materials for sale, and the commission may provide personnel services and office space therefor. Subject to rules and regulations adopted by the commission, all moneys received from the sale of publications or other materials provided by an association or foundation shall be returned to the association or foundation for use in furthering seismic safety programs.

(e) Do any and all other things necessary to carry out the purposes of this chapter.

SEC. 17. Section 8895.1 of the Government Code is amended and renumbered to read:

8870.55. The commission shall initiate, with the assistance and participation of other state, federal, and local government agencies, a comprehensive program to prepare the state for responding to a major earthquake prediction. The program should be implemented in order to result in specific tools or products to be used by governments in responding to an earthquake prediction, such as educational materials for citizens. This program may be implemented on a prototypical basis in one area of the state affected by earthquake predictions, provided that it is useful for application in other areas of the state upon its completion.

SEC. 18. Section 8896 of the Government Code is amended and renumbered to read:

8870.6. The commission shall appoint an executive director who shall be responsible for managing the affairs of the commission, subject to the direction and policies of the commission.

The executive director shall appoint such employees as may be necessary to carry out the functions of the commission.

SEC. 19. Section 8897 of the Government Code is amended and renumbered to read:

8870.7. The commission is responsible for all of the following in connection with earthquake hazard mitigation:

(a) Setting goals and priorities in the public and private sectors.

(b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.

(c) Scheduling a report on disaster mitigation issues from the Office of Emergency Services, on the commission agenda as required. For the purposes of this subdivision, the term disaster refers to all natural hazards which could have impact on public safety.

(d) Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

(e) Reviewing the recovery and reconstruction efforts after damaging earthquakes.

(f) Gathering, analyzing, and disseminating information.

(g) Encouraging research.

(h) Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

(i) Helping to coordinate the earthquake safety activities of government at all levels.

(j) Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

SEC. 20. Section 8897.1 of the Government Code is amended and renumbered to read:

8870.71. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals, related to earthquake safety to advise the Governor and Legislature concerning the proposals, and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study which is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) (1) Conduct a specific comprehensive investigation of the May 2, 1983, earthquake which devastated the City of Coalinga, focusing on commercial redevelopment, housing, land use planning, financing, codes and standards, and to provide funding and expert technical assistance to the people of Coalinga for planning and reconstruction.

(2) Prepare and publish, with the assistance and participation of other state, federal, and local government agencies and other knowledgeable investigators from the private sector, a comprehensive report on the Coalinga earthquake to include, but not be limited to, lessons learned for earthquake preparation and mitigation in California, an assessment of the earthquake's impact upon state and local seismic safety policies and programs, and to make recommendations to the Governor and the Legislature concerning the areas mentioned in this subdivision.

(f) In addition, the commission may perform any of the functions contained in subdivisions (a) to (e), inclusive, in relation to other disasters, as defined in subdivision (c) of Section 8870.7, in connection with issues or items reported or discussed with the Office of Emergency Services at any commission meeting.

SEC. 21. Section 8897.5 of the Government Code is amended and renumbered to read:

8870.75. In addition to the responsibilities listed in Section 8870.7, the Seismic Safety Commission shall undertake a study to determine the feasibility of (i) establishing a comprehensive program of earthquake hazard reduction having as its purposes the saving of lives and mitigating damage to property and (ii) developing and implementing a system for predicting damaging earthquakes in California.

The study shall accomplish the following tasks:

(a) Earthquake hazard reduction.

The study shall develop a comprehensive program for the reduction of earthquake hazards in California. It shall include, but not necessarily be limited to, the following:

(1) A review of and recommendations for improving the development and implementation of technically and economically feasible codes, standards, and procedures for the design and construction of new structures and the strengthening of existing structures so as to increase the earthquake resistance of structures located in areas of significant seismic hazard.

(2) A review of current methods and recommendations for new methods to improve the development, publication, and promotion, in conjunction with local officials, research organizations, and professional organizations, of model codes and other means to provide better information about seismic hazards to guide land use policy decisions and building activity.

(3) A review of and recommendations for methods, practices, and procedures to educate the public, including local officials, about the nature and consequences of earthquakes, about procedures for identifying those locations and structures especially susceptible to earthquake damage, and about ways to reduce and mitigate the adverse effects of an earthquake.

(4) A review of and recommendations for programs and techniques to improve preparedness for and response to damaging earthquakes with special attention being given to hazard control measures, preearthquake emergency planning, readiness of emergency services, and planning for postearthquake reconstruction and redevelopment.

(b) Earthquake prediction.

The study shall analyze the current methodologies, systems, and processes for predicting earthquakes and assess them for their effectiveness, reliability, and accuracy as they relate to California.

The study also shall examine the feasibility of implementing earthquake prediction systems in all areas of significantly high or moderate seismic risk and for identifying, evaluating, and accurately characterizing the associated hazards. In analyzing potential prediction systems, the study shall include requirements for necessary technical, scientific, and volunteer personnel; and technology, procedures, and other resources necessary to operate such a system. Special attention should be given to a critical review of existing and possible future technology, data collection and management systems, the availability of expert trained personnel, the dissemination of warnings, the scope and methods for organizing and maintaining a volunteer program for the purpose of making prediction observations, and the social and economic consequences of earthquake predictions. Wherever appropriate and reasonable, the study shall also recommend how a state earthquake prediction system can be best integrated with those of federal agencies and other institutions and organizations.

(c) Implementation processes.

With respect to implementation of earthquake hazard reduction and earthquake prediction, the study shall include the following:

(1) Recommendations for new roles, responsibilities, and programs for state and local agencies, universities, private organizations, and volunteer organizations, including goals, priorities, and expenditures of future state funds specifically identified for the recommended earthquake prediction and hazards reduction program.

(2) Recommendations for methods and procedures to disseminate and implement basic and applied earthquake research in order to achieve higher levels of seismic safety.

(d) Coordination with other agencies.

To the extent it is practical to do so, the study required by this section shall be coordinated with the relevant local, regional, and federal government agencies, key elements of the private sector, and at least the following state agencies: Office of Emergency Services, Division of Mines and Geology, Office of the State Architect, Department of Housing and Community Development, Department of Water Resources, State Energy Resources Conservation and Development Commission, Department of Real Estate, Department of Industrial Relations, Public Utilities Commission, State Department of Health Services, Office of the State Fire Marshal, Department of Transportation, Department of Finance, Military Department, Department of Insurance, Franchise Tax Board, Department of Savings and Loan, Department of Education, Banking Department, and Office of Planning and Research.

(e) The study shall include recommendations for statutory changes and specific executive actions to be taken by state and local agencies necessary to establish and implement an earthquake hazards reduction program and an earthquake prediction system for the State of California.

The commission shall submit the study to the Legislature by June 30, 1980, or earlier at its discretion.

SEC. 22. Section 8899 of the Government Code is amended and renumbered to read:

8870.9. This act shall be known and cited as the Seismic Safety Commission Act.

SEC. 23. Section 8899.2 of the Government Code is amended and renumbered to read:

8870.95. The Building Safety Board established in Section 15021 of the Health and Safety Code shall report annually to the Seismic Safety Commission.

CHAPTER 189

An act to add Section 6140.10 to the Business and Professions Code, to add Section 89012 to the Education Code, to amend Sections 12419.10, 68090.8, 68106, 68112, 68113, 68520, 68543.5, 68543.7, 68620, 75028.1, 75033.5, 77200, and 77301 of, to add Chapter 12 (commencing with Section 76000) to Title 8 of, and to repeal Chapter 1 (commencing with Section 77850) of, Chapter 2 (commencing with Section 77901) of, and Chapter 3 (commencing with Section 78011) of Title 8.5 of, the Government Code, to amend Sections 1205.1, 1464, and 1464.8 of, to add Sections 1462.3, 1463.001, 1463.002, 1463.003, 1463.004, 1463.006, 1463.009, 1463.04, 1463.7, 1463.9, 1463.14, 1463.16, 1463.18, 1463.22, 1463.23, 1463.25, and 1463.26 to, to repeal and add Section 1463 of, to repeal Sections 1464.5 and 1465 of, the Penal Code, to amend Section 97.35 of the Revenue and Taxation Code, to amend Sections 22651, 22651.7, 40611, 42007, and 42008 of the Vehicle Code, and to amend Sections 2 and 75 of the chapter of the Statutes of 1991 containing Assembly Bill 1297 of the 1991–92 Regular Session, relating to trial courts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 6140.10 is added to the Business and Professions Code, to read:

6140.10. Notwithstanding any other provision of law, on or before August 1, 1991, the State Bar shall transfer from the treasury of the State Bar to the General Fund the sum of two hundred thousand dollars ($200,000) for the operation and maintenance of the California State Law Library.

SEC. 1.5. Section 89012 is added to the Education Code, to read:

89012. Moneys in the State University Parking Revenue Fund shall be used exclusively for the development, enhancement, and operation of alternate methods of transportation of students and employees and for the mitigation of the impact of off-campus student and employee parking in university communities.

SEC. 2. Section 12419.10 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

12419.10. The Controller shall offset any amount overdue and unpaid for a fine, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law or from winnings in the California State Lottery. Standards and

procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

The Controller shall deduct and retain from any amount offset in favor of a city or county an amount sufficient to reimburse the Controller, the Franchise Tax Board, and the California State Lottery for their administrative costs of processing the offset payment.

Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1, or any other provision of law, the social security number of any person obtained pursuant to Section 4150.2 or 4760.1 of the Vehicle Code is not a public record and shall only be provided by the Department of Motor Vehicles to an authorized agency for the sole purpose of making an offset pursuant to this section. As used in this section, "authorized agency" means the Controller, the Franchise Tax Board, or the California Lottery Commission.

SEC. 3. Section 68090.8 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68090.8. (a) The Legislature finds that the management of criminal cases, including traffic cases, and the accounting for funds in the municipal and justice courts requires these courts to implement appropriate levels of automation. The purpose of this section is to make a fund available for the development of automated accounting and case-processing systems for the municipal and justice courts, together with funds to train operating personnel, and for the maintenance and enhancement of the systems.

(b) Prior to making any other required distribution, the county treasurer shall deposit 2 percent of all fines, penalties, and forfeitures collected in criminal cases, including, but not limited to, moneys collected pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of this code, Section 13003 of the Fish and Game Code, Sections 11372.5 and 11502 of the Health and Safety Code, and Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code, into a fund which shall be used exclusively to pay the costs of automating municipal and justice court recordkeeping systems for criminal, including traffic, cases. These systems shall meet Judicial Council performance standards, including production of reports as needed by the state, the counties, and local governmental entities.

SEC. 4. Section 68106 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68106. The Judicial Council shall, in consultation with the Department of Finance and the Legislative Analyst, study the methods available for the inclusion of trial courts in the Budget Act, and shall report its findings and recommendations to the Legislature on or before March 1, 1992, as to the most efficient and cost-effective

process for including trial courts in the Budget Act. The report shall also include recommendations on an equitable formula for the allocation of state funds appropriated for the support of the trial courts.

SEC. 5. Section 68112 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68112. (a) On or before March 1, 1992, each superior, municipal, and justice court in each county, in consultation with the local bar, shall prepare and submit to the Judicial Council for review and approval a trial court coordination plan designed to achieve maximum utilization of judicial and other court resources and statewide cost reductions in court operations of at least 3 percent in the 1992–93 fiscal year, a further 2 percent in the 1993–94 fiscal year, and a further 2 percent in the 1994–95 fiscal year. The cost reduction shall be based on the prior year actual expenditures, plus any amount reduced from the budget for court operations by a county as a result of any reduction in state funding made pursuant to Section 13308, increased by the percentage change in population for the prior calendar year and the Department of Commerce implicit price deflator for state and local government for the prior calendar year. The coordination plan for each court shall be reviewed and approved by the Judicial Council on or before July 1, 1992.

(b) The coordination plan shall take into consideration the elements of such plans specified in standards adopted by the Judicial Council and applicable case processing time standards adopted by the Judicial Council. The standards adopted by the Judicial Council shall include, but not be limited to, the following:

(1) The use of blanket cross-assignments allowing judges to hear civil, criminal, or other types of cases within the jurisdiction of another court.

(2) The coordinated or joint use of subordinate judicial officers to hear or try matters.

(3) The coordinated, joint use, sharing or merger of court support staff among trial courts within a county or across counties. In a county with a population of less than 100,000 the coordination plan need not involve merger of superior and justice court staffs if the court can reasonably demonstrate that the maintenance of separate administrative staffs would be more cost-effective and provide better service.

(4) The assignment of civil, criminal, or other types of cases for hearing or trial, regardless of jurisdictional boundaries, to any available judicial officer.

(5) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(6) The establishment of separate calendars or divisions to hear a particular type of case.

(7) In rural counties, the use of all court facilities for hearings and

trials of all types of cases and to accept for filing documents in any case before any court in the county participating in the coordination plan.

(8) The coordinated or joint use of alternative dispute resolution programs such as arbitration.

(9) The unification of the trial courts within a county to the maximum extent permitted by the Constitution.

(10) The joint development of automated accounting and case-processing systems, including joint use of moneys available under Section 68090.8.

(c) In preparing coordination plans a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units where a courtwide plan would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

SEC. 5.5. Section 68113 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68113. (a) The superior, municipal, and justice courts in each county shall submit a report to the Judicial Council on progress towards achieving the cost reduction goals associated with the coordination plans and factors impacting the cost of court operations and the collection of revenues. The report shall also include financial information prepared by the county auditor on expenditures for court operations and revenues according to a uniform chart of accounts adopted by the Judicial Council. The first report shall be submitted on or before February 15, 1992, covering the period July 1, 1991, to December 31, 1991, inclusive. Thereafter the reports shall be submitted quarterly on or before the 15th day of the second month following the end of the quarter.

(b) For purposes of the reporting requirements of this section, a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units corresponding to the organization of the court or courts under a coordination plan where reporting courtwide would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(c) The Judicial Council shall submit a report to the Legislature within three months of the end of each fiscal year setting forth all of the following:

(1) The revenues and expenditures for each superior, municipal, and justice court in the state and statewide totals.

(2) A summary of the savings achieved by each county and statewide.

(3) Factors impacting the cost of court operations and the collection of revenues.

SEC. 6. Section 68520 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68520. (a) On or before January 31, 1992, each superior, municipal, and justice court shall provide the Judicial Council with complete information regarding the number, classification, salary, and benefits of every officer and employee of the court who is involved in performing court operations, as defined in Section 77003.

(b) On or before July 1, 1992, the Judicial Council shall report to the Legislature its findings and recommendations on the disposition of trial court employees, including the possibility of continuing them as county employees for purposes of compensation and benefits, under the eventual state assumption of trial court funding. The Judicial Council shall also recommend methods of limiting increases in court employee compensation beyond that of comparable state employees. The goals of the recommendations shall be (1) uniformity, (2) equity, and (3) cost control. The study shall include the participation of three representatives selected by labor organizations representing court employees.

(c) It is the intent of the Legislature that existing provisions pertaining to court employees, including, but not limited to, collective bargaining, merit systems, pensions, and other benefits shall remain in effect until July 1, 1993.

SEC. 7. Section 68543.5 of the Government Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68543.5. (a) Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a trial court, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not under the Judges' Retirement Law is assigned to sit in a trial court the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

The receiving county shall pay the state 50 percent of the salary provided in Section 68543.7 for the time the judge serves the receiving court. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business. The receiving county shall reimburse the state

for these expenses. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

The receiving county shall pay the state 50 percent of the full salary of a judge of the court to which the retired judge is assigned for the time the judge serves the receiving court. If the county is an option county, as defined in Section 77004, the amount due shall be paid as provided in Section 77205.3.

(b) Whenever a judge retired as such under the Judges' Retirement Law is assigned to sit in a court of appeal or the Supreme Court, he or she shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he or she is assigned unless the judge waives compensation under this section. A retired judge of a justice court who is not under the Judges' Retirement Law and who is assigned to sit in a court of appeal or the Supreme Court shall be compensated while so sitting at the full compensation of a judge of the court to which he or she is assigned, or the compensation specified in Section 68541, whichever is greater. The compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he or she is assigned and the compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

If the compensation is greater than the judge's retirement allowance, the state shall pay the judge the difference between the compensation and the retirement allowance. The state shall reimburse the Judges' Retirement Fund for the retirement allowance paid to the judge while sitting on assignment, except that if no allowance has been paid because the judge has taken deferred retirement, no reimbursement shall be paid to the Judges' Retirement System.

If the compensation would be less than his or her retirement allowance, the retirement allowance shall continue to be paid in lieu of the compensation. The state shall reimburse the Judges' Retirement Fund in the amount of the compensation which would otherwise have been paid to the judge while sitting on assignment.

If a judge retired under the Judges' Retirement Law is assigned to sit in a court of appeal or the Supreme Court, the 8 percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of

the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the State Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

SEC. 8. Section 68543.7 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68543.7. Subject to funding in the Budget Act, the Chief Justice shall make available by assignment the equivalent of 50 additional full-time judges. A retired judge sitting on assignment in a trial court shall be paid in the amount of 1/250th of the annual salary of a judge of the court to which he or she is assigned for each day of service in the court.

SEC. 8.5. Section 68620 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

68620. (a) Operative July 1, 1992, each municipal and justice court shall establish a delay reduction program in consultation with the local bar that is consistent with the provisions of this article. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all procedures, standards, or policies for a delay reduction program in municipal and justice courts on a statewide basis which are consistent with the provisions of the Trial Court Delay Reduction Act.

(b) Actions and proceedings subject to the provisions of Chapter 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of the Code of Civil Procedure or provisions of Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure shall not be assigned to or governed by the provisions of any delay reduction program established pursuant to the section.

(c) It is the intent of the Legislature that the civil discovery in actions and proceedings subject to a program established pursuant to Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 of the Code of Civil Procedure shall be governed by Sections 94 and 95 of the Code of Civil Procedure. Civil discovery in these actions and proceedings shall not be affected by the provisions of any delay reduction program adopted pursuant to this section.

SEC. 9. Section 75028.1 of the Government Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

75028.1. (a) At the time of the filing of a notice of retirement

under the Judges' Retirement Law to be effective after age 69½ but before the end of the term of office during which the judge attains age 70, a judge may apply to the chairperson of the Judicial Council for senior judge status.

(b) A retired judge who retired under the Judges' Retirement Law before July 1, 1985, and who has attained age 60, may apply to the Chairperson of the Judicial Council for senior judge status.

(c) A judge who has left office at age 60 or older on or after July 1, 1985, and who has 20 years or more of retirement service credit under the Judges' Retirement Law, may apply to the Chairperson of the Judicial Council for senior judge status.

(d) A judge serving on senior judge status shall serve full time as assigned for up to three consecutive years and by accepting that status waives the right to refuse any assignment as otherwise provided by law. A judge who elects to retire under this section is deemed retired, and the judicial office from which the judge retired shall become vacant and a successor shall then be appointed to fill the vacancy.

SEC. 10. Section 75033.5 of the Government Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to the end of the term of office during which he or she attains age 70 may retire, and upon his or her application therefor to the Judges' Retirement System after reaching the age which would have permitted him or her to retire for age and length of service under Section 75025 had he or she remained continuously in service as a judge up to that age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he or she is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his or her discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his or her retirement, not to exceed 20 years.

A judge of a justice court who renders part-time service after January 1, 1990, shall receive a reduced retirement allowance based upon actual service rendered.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years. For the purposes of calculating the percentage of compensation payable, part-time service shall be the equivalent of full-time service.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of at least age 63 unless the judge is

credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he or she living and receiving the benefits accorded by this section, commencing with the day following the date of the death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his or her death, if his or her death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon that filing the judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he or she has retired shall become vacant. The notice and election of retirement shall be sufficient if it states in substance that the judge elects to retire under the benefits of this section.

A judge who leaves his or her office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he or she receives by virtue of his or her service in that office.

SEC. 11. Chapter 12 (commencing with Section 76000) is added to Title 8 of the Government Code, to read:

CHAPTER 12. COUNTY PENALTIES

Article 1. Penalties

76000. (a) In each county there shall be levied an additional penalty of seven dollars ($7) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the amounts 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 parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(b) In each authorized county, provided that the board of

supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. The county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50) 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 county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process 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 added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved. Effective January 1, 1995, the county treasurer shall transfer one dollar ($1) of every penalty collected pursuant to this section to the State Courthouse Construction Fund.

Article 2. Allocation of Penalties

76100. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any 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 may establish in the county treasury a Courthouse Construction Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors in accordance with this chapter. The moneys of the Courthouse Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of court buildings referred to in subdivision (a), the county may use the moneys of the Courthouse

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 that excess is anticipated to be needed at a later time.

(c) Any excess courtroom or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the 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 Construction Fund.

(d) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Except as otherwise provided by statute, deposits to the fund in accordance with this section shall continue through and including the 20th year after the initial year for which the surcharge or additional penalty is collected, or through and including the 20th year after any borrowings are made for any construction funded under this section.

76101. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems, the board of supervisors may by resolution establish in the county treasury a Criminal Justice Facilities Construction Fund. All amounts collected pursuant to resolutions adopted by a county in accordance with this chapter shall be deposited into the fund. The moneys of the Criminal Justice Facilities Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) For purposes of this chapter, "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 Criminal Justice Facilities Construction Fund shall comply with the "Minimum Standards for Local Detention Facilities" promulgated by the Board of Corrections.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Except as otherwise provided by statute, deposits to the fund in accordance with this section shall continue through and including the 20th year after the initial year for which the additional penalty is collected, or through and including the 20th year after any borrowings are made for any

construction funded under this section.

76102. (a) For the purpose of assisting any county in the establishment of adequate fingerprint facilities in the county, the board of supervisors may establish in the county treasury an Automated Fingerprint Identification Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors as authorized in accordance with this title. The moneys of the fund shall be payable only for the purchase, lease, operation, including personnel and related costs, and maintenance of automated fingerprint equipment and the replacement of existing automated fingerprint equipment, or for the reimbursement of local agencies within the county which have previously purchased, leased, operated, or maintained automated fingerprint equipment from other funding sources.

(b) For purposes of this section "automated fingerprint equipment" means that equipment designated for the storage or retrieval of fingerprint data which is compatible with the California Identification System Remote Access Network.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

76103. To assist any county in the funding and maintenance of a criminal justice forensic laboratory, the board of supervisors may, by resolution, establish in the county treasury a Forensic Laboratory Fund. 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 Forensic Laboratory Fund together with any interest earned thereon shall be payable only for the construction, reconstruction, expansion, improvement, operation, or maintenance of 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.

76104. For purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1798.98a) of Division 2.5 of the Health and Safety Code, the board of supervisors of any county which established in the county treasury an Emergency Medical Services Fund prior to June 1, 1991, shall continue that fund using penalty revenues pursuant to Section 76000 as specified in the resolution or resolutions adopted by the board of supervisors prior to June 1, 1991, to create that fund. The amount deposited in that fund shall be at and shall not exceed the

corresponding amount for the 1990–91 fiscal year, plus a percentage representing the growth, if any, in the fines and forfeitures collected in comparison with the 1990–91 fiscal year, not to exceed 10 percent per fiscal year.

For any county which established an Emergency Medical Services Fund prior to June 1, 1991, and for which that fund has not received deposits for 12 full months of collections of the penalty, the 1990–91 fiscal year shall be computed by projecting actual collection experience to produce an estimated annual amount.

The board of supervisors of a county that has not established an Emergency Medical Services Fund prior to July 1, 1991, may set aside up 28 percent of the total revenue from the penalty established pursuant to Section 76000 in the county treasury for purposes of supporting emergency medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Emergency Medical Services Fund shall be payable only for the purposes specified in Chapter 2.5 (commencing with Section 1798.98a) of Division 2.5 of the Health and Safety Code.

76105. In any county authorized to establish one or more special purpose funds pursuant to Article 3 (commencing with Section 76200), the county treasurer shall deposit in those funds that portion of the penalties collected pursuant to Section 76000 specified by the board of supervisors by resolution. The moneys of the fund shall be payable only for the purposes set forth in the authorizing section and at the time necessary therefor.

Except as otherwise provided by statute, deposits to the fund in accordance with this section shall continue through and including the 20th year after the initial year for which the additional penalty is collected.

76106. With respect to any fund established pursuant to this chapter, the penalty amounts to be deposited in the fund shall be specified by resolution adopted by the board of supervisors of each county consistent with the authorizations set forth in this article and Article 3 (commencing with Section 76200). Each resolution shall state that the implementation of the applicable sections is necessary to the county for the establishment of adequate courtroom or criminal justice facilities or other authorized purposes of the fund. The resolution shall set forth the amounts to be placed in the fund and shall instruct 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 each court in the county.

Article 3. County Provisions

76200. Alameda County is authorized to establish a Courthouse Construction Fund pursuant to Section 76100 so long as the county maintains the Berkeley-Albany Municipal Court. In the event that the Berkeley-Albany Municipal Court is closed, Alameda County may not collect those funds.

76213. 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 may by resolution establish in the county treasury a Criminal Justice Investigation Fund pursuant to Section 76101.

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 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.

76215. To assist Kern County in the improvement of county juvenile justice facilities or county juvenile justice rehabilitation facilities, the board of supervisors may by resolution establish in the county treasury a Juvenile Justice Facilities Construction Fund pursuant to Section 76105. The moneys in the Juvenile Justice Facilities Construction Fund shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county juvenile justice or county juvenile justice rehabilitation facilities.

The money in the fund may be used to finance any public agency funding mechanism which reduces an obligation incurred in reliance upon the authority granted by this section, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs.

76219. (a) The Courthouse Construction Fund established in Los Angeles County pursuant to Section 76100 shall be known as the Robbins Courthouse Construction Fund.

(b) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed and owed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area and the Los Cerritos Municipal Court District, until the time that the County of Los Angeles has spent a total of at least forty-three million dollars ($43,000,000) on

courthouse construction within the San Fernando Valley Statistical Area and at least eight million dollars ($8,000,000) within the Los Cerritos Municipal Court District for the Bellflower Courthouse.

(c) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, or within the West Los Angeles Branch of the Los Angeles Municipal Court District, until the time that the County of Los Angeles has fulfilled the requirements of subdivision (d) and has additionally spent at least sixteen million five hundred thousand dollars ($16,500,000) on courthouse construction within the East Los Angeles Municipal Court District, has spent at least ten million dollars ($10,000,000) on courthouse construction within the Downey Municipal Court District, has commenced construction on a courthouse with at least six courtrooms in the West San Fernando Valley, has commenced construction on a courthouse with at least two courtrooms in the community of Hollywood, has commenced construction on a courthouse for the superior court with at least 18 courtrooms in the North Hollywood Redevelopment Project Area of the City of Los Angeles or immediately adjacent thereto, and has commenced construction on a courthouse for the West Los Angeles Branch of the Los Angeles Municipal Court District.

(d) All courtroom construction in the County of Los Angeles which utilizes moneys from the Robbins Courthouse Construction Fund or moneys borrowed against the Robbins Courthouse Construction Fund shall be within the boundaries of the San Fernando Valley Statistical Area, within the boundaries of the Los Cerritos Municipal Court District, within the boundaries of the East Los Angeles Municipal Court District, within the Downey Municipal Court District, within the community of Hollywood, within the West Los Angeles Branch of the Los Angeles Municipal Court District, within the Pasadena Judicial District, within the Southeast Municipal Court District, within the South Bay Judicial District, within the Santa Monica Judicial District, or within the Antelope Valley Judicial District, until the time that the County of Los Angeles has fulfilled the requirements of subdivisions (b) and (c), and has commenced construction of new facilities or the expansion of existing facilities for the municipal courts in the Pasadena Judicial District, the north and south branches of the Southeast Municipal Court District, the South Bay Judicial District, and the Santa Monica Judicial District, and a facility for the superior and municipal courts in the Antelope Valley Judicial District.

(e) For purposes of this section, the San Fernando Valley Statistical Area includes all land within the San Fernando Valley

Statistical Area (as defined in subdivision (e) of Section 11093) as well as the City of San Fernando, the City of Hidden Hills, and the unincorporated areas of Los Angeles County located west of the City of Los Angeles, east and south of the Ventura County line, and north of a line extended westerly from the southern boundary of the San Fernando Valley Statistical Area (as defined in subdivision (c) of Section 11093).

(f) The moneys of the Robbins Courthouse Construction Fund together with any interest earned thereon shall be payable only for courtroom construction and land acquisition as authorized in subdivision (b) and, after the requirement of subdivision (b) has been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (c) and, after the requirements of subdivisions (b) and (c) have been met, shall be payable only for courtroom construction and land acquisition as authorized in subdivision (d).

(g) Deposits to the fund shall continue through and including either (1) the 25th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to pay for construction provided for in this section, whichever time is longer.

(h) The resolution adopted by the Board of Supervisors of the County of Los Angeles on September 2, 1980, stating that the provisions of Chapter 578 of the Statutes of 1980 are necessary to the establishment of adequate courtroom facilities in the County of Los Angeles shall be deemed a resolution stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county, and shall satisfy the requirements of this section.

76221. Deposits to the Criminal Justice Facilities Construction Fund established in Marin County pursuant to Section 76101 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.

76230. (a) To assist Orange County in county criminal justice facility transition planning, the board of supervisors may establish by resolution a Transition Planning Trust Fund pursuant to Section 76105. The fund moneys, together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division payable only for county criminal justice facility transition planning. The money in the fund may be used through any public agency funding mechanism which reduces an obligation incurred in reliance upon the authority granted by this section, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs.

(b) 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.

(c) Deposits to the Transition Planning Trust Fund shall continue through and include the second year after the initial calendar year in which the assessment is collected. Deposits to the County Jail Fund shall continue until January 1, 2000.

76238. (a) Notwithstanding any other law, for the purpose of assisting the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the Board of Supervisors of the City and County of San Francisco may require the amounts collected pursuant to subdivision (d) to be deposited in the Courthouse Construction Fund established pursuant to Section 76100. In the City and County of San Francisco, the moneys of the Courthouse Construction Fund together with any interest earned thereon shall be payable only for the foregoing purposes and at the time necessary therefor, and for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the City and County of San Francisco may use the moneys of the Courthouse Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if new courtrooms or a courtroom building or buildings are acquired, constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if that excess is anticipated to be needed at a later time.

(c) Any excess courtrooms or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amounts received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) In the City and Count of San Francisco, a surcharge for the purpose and for the time set forth in this section may be added to any filing fee in any civil action in either the municipal court or in any civil or probate action in the superior court. The surcharge shall be in an amount, not to exceed fifty dollars ($50), and shall be collected in a manner as set forth in a resolution adopted by the Board of Supervisors of the City and County of San Francisco.

76245. (a) The fund established in Shasta County pursuant to Section 76200 shall be known as the Statham-Robbins Courthouse Construction Fund.

(b) The fund established in Shasta County pursuant to Section 76101 shall be known as the Statham-Robbins Criminal Justice Facilities Construction Fund.

76248. To assist Solano County in county jail operations, the board of supervisors may establish by resolution a County Jail Fund pursuant to Section 76105.

(a) The moneys in the fund, together with any interest earned thereon, shall be payable only for county jail operations. 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.

(b) Deposits to the County Jail Fund shall continue until January 1, 2000.

SEC. 12. Section 77200 of the Government Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

77200. (a) Except as provided in subdivisions (d) and (e), 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-two thousand one hundred thirty-five dollars ($42,135).

(2) For the 1991–92 fiscal year, the sum of fifty thousand five hundred sixty-two dollars ($50,562), as adjusted 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.

(3) Beginning with the 1992–93 fiscal year, it is the intent of the Legislature to increase trial court funding by an amount sufficient to fund 55 percent of the annual statewide costs for court operations. It is the intent of the Legislature that this funding shall increase to 60 percent for the 1993–94 fiscal year, to 65 percent for the 1994–95 fiscal year, and to 70 percent for the 1995–96 fiscal year.

(b) In any year in which the amounts provided pursuant to this section 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.

(c) Quarterly payments shall be transmitted by the Controller on or before the 15th day of that quarter.

(d) In the event the Budget Act for the 1991–92 fiscal year provides additional moneys for trial court funding in excess of the amount required pursuant to subdivision (a), those moneys shall be apportioned to each option county, in the amount indicated in this subdivision. These apportionments shall be in addition to those provided for in subdivision (a) and shall be allocated by the Controller on a quarterly basis as provided in subdivision (c).

Jurisdiction	Amount
Alameda	$ 13,290,000
Alpine	46,000
Amador	199,000
Butte	701,000
Calaveras	184,000
Colusa	253,000
Contra Costa	5,750,000
Del Norte	276,000
El Dorado	1,012,000
Fresno	5,750,000
Glenn	253,000
Humboldt	897,000
Imperial	1,498,000
Inyo	483,000
Kern	5,980,000
Kings	848,000
Lake	253,000
Lassen	184,000
Los Angeles	77,858,000
Madera	575,000
Marin	1,955,000
Mariposa	123,000
Mendocino	621,000
Merced	1,624,000
Modoc	146,000
Mono	138,000
Monterey	3,680,000
Napa	851,000
Nevada	1,081,000
Orange	20,270,000
Placer	1,081,000
Plumas	92,000
Riverside	6,440,000
Sacramento	8,280,000
San Benito	138,000
San Bernardino	9,660,000
San Diego	13,738,000
San Francisco	4,741,000
San Joaquin	1,863,000
San Luis Obispo	1,483,000
San Mateo	4,140,000
Santa Barbara	3,370,000
Santa Clara	10,350,000
Santa Cruz	2,287,000
Shasta	1,587,000
Sierra	105,000

Siskiyou	667,000
Solano	2,990,000
Sonoma	3,450,000
Stanislaus	1,702,000
Sutter	456,000
Tehama	437,000
Trinity	92,000
Tulare	1,702,000
Tuolumne	276,000
Ventura	5,030,000
Yolo	1,242,000
Yuba	205,000
Total	$234,383,000

(e) In no event shall the total of the quarterly payments to an option county exceed 100 percent of the approved annual budget for court operations for the county.

SEC. 13. 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 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.

SEC. 14. Chapter 1 (commencing with Section 77850) of Title 8.5 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session and as amended and renumbered as Chapter 3 by Senate Bill 885 of the 1991–92 Regular Session, is repealed.

SEC. 14.6. Chapter 2 (commencing with Section 77901) of Title

8.5 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session and as amended and renumbered as Chapter 4 by Senate Bill 885 of the 1991–92 Regular Session, is repealed.

SEC. 14.8. Chapter 3 (commencing with Section 78011) of Title 8.5 of the Government Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session and as repealed and added as Chapter 5 by Senate Bill 885 of the 1991–92 Regular Session, is repealed.

SEC. 15. Section 1205.1 of the Penal Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

1205.1. (a) All fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any superior court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated.

(b) Once a month there shall be transferred into the proper funds of the county an amount equal to 25 percent of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail.

(c) The total amount of the fines and forfeitures retained in the 1991–92 fiscal year by a county under this section shall not exceed 25 percent of the amount of fines and forfeitures retained by the county plus an amount equal to 5 percent of the fines and forfeitures retained by the county in the 1990–91 fiscal year.

(d) All moneys in excess of the amount transferred to the county under this section shall be transferred monthly to the General Fund.

SEC. 16. Section 1462.3 is added to the Penal Code, to read:

1462.3. Notwithstanding any other provision of law, a municipal or justice court shall authorize the following entities upon request to receive, deposit, accept forfeiture, and otherwise process the posting of bail for state and local parking violations issued by an employee or agent of the California State University, the University of California, the California Department of Parks and Recreation, the California State Police, the California Exposition and State Fair, the Department of Forestry and Fire Protection or any jurisdiction that provides fire protection for the department by contract, a community college district, a regional park district, a park and recreation district, a municipal utility district, a police protection district, a community service district, a transit district, a school district, a port district, a harbor district, a metropolitan development board, a fire protection district, a bridge and highway district, or a housing authority. Any entity which maintains an administrative appeals process for the review of all contested violations it has issued shall transfer, once a month, an amount equal to 15 percent of the amounts deposited directly with the entity, to the general fund of the county. Any entity which does not maintain an administrative appeals process for the review of all contested violations it has issued shall transfer, once a month, an amount equal to 5 percent of the amounts deposited directly with the entity, to the general fund of the

county.

Where such an entity and a municipal or justice court have, prior to June 1, 1991, entered into an agreement governing the distribution of revenue from parking penalties, those agreements shall remain in full force and effect until changed by mutual agreement.

If authorization is not sought by an entity whose employees issue written notices of state and local parking violations, out of the moneys deposited with the county treasurer from the court's receipt, deposit, acceptance of forfeiture, and other processing of bail, 25 percent shall be transferred, once a month, to the General Fund of the state, with respect to state agencies, or to the general fund of the local entity with respect to a local entity issuing the written notice, and the remainder shall be transferred to the county general fund. A municipal or justice court and an entity listed above may adjust the percentage herein by mutual agreement.

SEC. 17. Section 1463 of the Penal Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is repealed.

SEC. 18. Section 1463 is added to the Penal Code, to read:

1463. All fines and forfeitures imposed and collected for crimes other than parking offenses shall be distributed in accordance with Section 1463.001. Fines and forfeitures imposed and collected for parking offenses shall be distributed as provided in Section 1463.009.

The following definitions shall apply to terms used in this chapter:

(a) "Arrest" means any law enforcement action, including issuance of a notice to appear or notice of violation, which results in a criminal charge.

(b) "City" includes any city, city and county, district, authority or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear, or notices of violation which may be filed in court.

(c) "City arrest" means an arrest by an employee of a city, or by a California Highway Patrol officer within the limits of a city.

(d) "County" means the county in which the arrest took place.

(e) "County arrest" means an arrest by a California Highway Patrol officer outside the limits of a city, or any arrest by a county officer or by any other state officer.

(f) "Court" means the superior, municipal, or justice court or a juvenile forum established under Section 257 of the Welfare and Institutions Code, in which the case arising from the arrest is filed.

(g) "Division of moneys" means an allocation of base fine proceeds between agencies as required by statute including, but not limited to, Sections 1463.003, 1463.9, 1463.23, 1463.26, and Sections 13001, 13002, and 13003 of the Fish and Game Code, and Section 11502 of the Health and Safety Code.

(h) "Offense" means any infraction, misdemeanor, or felony, and any act by a juvenile leading to an order to pay a financial sanction by reason of the act being defined as an infraction, misdemeanor, or felony, whether defined in this or any other code, except any parking offense as defined in subdivision (i).

(i) "Parking offense" means any offense charged pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, including registration and equipment offenses included on a notice of parking violation.

(j) "Penalty allocation" means the deposit of a specified part of moneys to offset designated processing costs, as provided by Section 1463.16 and by Section 68090.8 of the Government Code.

(k) "Total parking penalty" means the total sum to be collected for a parking offense, whether as fine, forfeiture of bail, or payment of penalty to the Department of Motor Vehicles. It may include the following components:

(1) The base parking penalty as established pursuant to Section 40203.5 of the Vehicle Code.

(2) The Department of Motor Vehicles (DMV) fees added upon the placement of a hold pursuant to Section 40220 of the Vehicle Code.

(3) The surcharges required by Section 76000 of the Government Code.

(4) The notice penalty added to the base parking penalty when a notice of delinquent parking violations is given.

(*l*) "Total fine or forfeiture" means the total sum to be collected upon a conviction, or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It may include, but is not limited to, the following components as specified for the particular offense:

(1) The "base fine" upon which the state penalty and additional county penalty is calculated.

(2) The "county penalty" required by Section 76000 of the Government Code.

(3) The "service charge" permitted by Section 853.7 of the Penal Code and Sections 40508.5 and 41103.5 of the Vehicle Code.

(4) The "special penalty" dedicated for blood alcohol analysis, alcohol program services, traumatic brain injury research, and similar purposes.

(5) The "state penalty" required by Section 1464.

SEC. 19. Section 1463.001 is added to the Penal Code, to read:

1463.001. All fines and forfeitures imposed and collected for crimes other than parking offenses resulting from a filing in a court shall as soon as practicable after receipt thereof, be deposited with the county treasurer, and each month the total fines and forfeitures which have accumulated within the past month shall be distributed, as follows:

(a) The state penalties, county penalties, special penalties, service charges, and penalty allocations shall be transferred to the proper funds as required by law.

(b) The base fines shall be distributed, as follows:

(1) Any base fines which are subject to specific distribution under any other section shall first be distributed to the specified funds of the state or local agency. Any amount due to the county shall be divided between the state and county, with 75 percent transferred

to the General Fund and 25 percent transferred to the proper funds of the county, subject to the limitations established by Section 1463.003. Any amount due to cities shall be divided between each city and the state, with 50 percent deposited to the General Fund, and 50 percent deposited to the treasury of the appropriate city, subject to the limitations established by Section 1463.003.

(2) Of base fines resulting from county arrest not included in paragraph (1), 25 percent shall be transferred into the proper funds of the county, subject to the limitations established by Section 1463.003, and 75 percent shall be transferred to the General Fund.

(3) Of base fines resulting from city arrests not included in paragraph (1), an amount equal to the applicable county percentages set forth in Section 1463.002, as modified by Section 1463.28, shall be divided between the state and county, with 75 percent transferred to the General Fund and 25 percent transferred into the proper funds of the county, subject to the limitations established by Section 1463.003. The remainder of base fines resulting from city arrests shall be divided between each city and the state, with 50 percent deposited to the General Fund, and 50 percent deposited to the treasury of the appropriate city, subject to the limitations established by Section 1463.003.

SEC. 20. Section 1463.002 is added to the Penal Code, to read:

1463.002. The base fine amounts from city arrests shall be subject to distribution according to the following schedule:

County and city	Percentage
Alameda	
Alameda	18
Albany	29
Berkeley	19
Emeryville	13
Hayward	10
Livermore	7
Oakland	22
Piedmont	44
Pleasanton	17
San Leandro	9
County percentage	21
Amador	
Amador	25
Ione	25
Jackson	25
Plymouth	25
Sutter Creek	25
County percentage	29
Butte	
Biggs	75
Chico	22
Gridley	49

Oroville	9
County percentage	20
Calaveras	
Angels	62
County percentage	62
Colusa	
Colusa	13
Williams	17
County percentage	16
Contra Costa	
Antioch	11
Brentwood	24
Concord	18
El Cerrito	19
Hercules	14
Martinez	22
Pinole	22
Pittsburg	5
Richmond	14
San Pablo	12
Walnut Creek	24
County percentage	14
Del Norte	
Crescent City	19
County percentage	19
El Dorado	
Placerville	14
County percentage	14
Fresno	
Clovis	23
Coalinga	21
Firebaugh	16
Fowler	34
Fresno	26
Huron	24
Kerman	14
Kingsburg	34
Mendota	11
Orange Cove	24
Parlier	21
Reedley	30
Sanger	29
San Joaquin	15
Selma	14
County percentage	24
Glenn	
Orland	27
Willows	36
County percentage	32

Humboldt	
Arcata	9
Blue Lake	26
Eureka	11
Ferndale	30
Fortuna	17
Trinidad	11
County percentage	11
Imperial	
Brawley	8
Calexico	10
Calipatria	30
El Centro	5
Holtville	16
Imperial	6
Westmorland	12
County percentage	8
Inyo	
Bishop	25
County percentage	25
Kern	
Bakersfield	10
Delano	13
Maricopa	36
Shafter	15
Taft	19
Tehachapi	12
Wasco	28
County percentage	12
Kings	
Corcoran	31
Hanford	21
Lemoore	25
County percentage	25
Lake	
Lakeport	33
County percentage	33
Lassen	
Susanville	21
County percentage	21
Los Angeles	
Alhambra	13
Arcadia	11
Avalon	54
Azusa	11
Bell	11
Beverly Hills	14
Burbank	14
Claremont	5

Compton	16
Covina	11
Culver City	10
El Monte	11
El Segundo	11
Gardena	22
Glendale	16
Glendora	12
Hawthorne	7
Hermosa Beach	14
Huntington Park	12
Inglewood	16
La Verne	14
Long Beach	14
Los Angeles	8
Lynwood	9
Manhattan Beach	13
Maywood	15
Monrovia	11
Montebello	11
Monterey Park	11
Palos Verdes Estates	10
Pasadena	9
Pomona	12
Redondo Beach	15
San Fernando	17
San Gabriel	16
San Marino	5
Santa Monica	11
Sierra Madre	11
Signal Hill	24
South Gate	13
South Pasadena	9
Torrance	16
Vernon	25
West Covina	11
Whittier	11
County percentage	11
Madera	
Chowchilla	17
Madera	16
County percentage	17
Marin	
Belvedere	16
Corte Madera	12
Fairfax	30
Larkspur	30
Mill Valley	13
Ross	18

San Anselmo	11
San Rafael	13
Sausalito	21
County percentage	16
Mendocino	
Fort Bragg	19
Point Arena	40
Ukiah	10
Willits	24
County percentage	17
Merced	
Atwater	23
Dos Palos	21
Gustine	23
Livingston	14
Los Banos	13
Merced	18
County percentage	18
Modoc	
Alturas	42
County percentage	42
Monterey	
Carmel	17
Gonzales	10
Greenfield	13
King City	36
Monterey	13
Pacific Grove	22
Salinas	36
Soledad	16
County percentage	23
Napa	
Calistoga	37
Napa	11
St. Helena	12
County percentage	14
Nevada	
Grass Valley	7
Nevada City	17
County percentage	9
Orange	
County percentage	15
Placer	
Auburn	18
Colfax	8
Lincoln	26
Rocklin	16
Roseville	10
County percentage	14

Plumas	
Portola	19
County percentage	19
Riverside	
Banning	35
Beaumont	15
Blythe	9
Coachella	12
Corona	12
Elsinore	10
Hemet	35
Indio	16
Palm Springs	35
Perris	14
Riverside	16
San Jacinto	41
County percentage	35
Sacramento	
Folsom	31
Galt	25
Isleton	13
North Sacramento	10
Sacramento	21
County percentage	26
San Benito	
Hollister	9
San Juan Bautista	28
County percentage	11
San Bernardino	
Barstow	23
Chino	14
Colton	21
Fontana	15
Needles	33
Ontario	20
Redlands	28
Rialto	15
San Bernardino	20
Upland	14
County percentage	20
San Diego	
Carlsbad	8
Chula Vista	23
Coronado	25
Del Mar	8
El Cajon	17
Escondido	16
Imperial Beach	8
La Mesa	23

Lemon Grove	8
National City	14
Oceanside	15
San Marcos	8
Vista	8
San Diego	6
County percentage	25
San Joaquin	
Lodi	18
Manteca	8
Ripon	11
Stockton	14
Tracy	15
County percentage	14
San Luis Obispo	
Arroyo Grande	9
Paso Robles	26
Pismo Beach	8
San Luis Obispo	21
County percentage	16
San Mateo	
Atherton	27
Belmont	7
Burlingame	38
Colma	40
Daly City	24
Hillsborough	75
Menlo Park	12
Millbrae	16
Redwood City	27
San Bruno	13
San Carlos	8
San Mateo	42
South San Francisco	12
County percentage	21
Santa Barbara	
Guadalupe	28
Lompoc	16
Santa Barbara	11
Santa Maria	12
County percentage	13
Santa Clara	
Alviso	75
Campbell	16
Gilroy	28
Los Altos	16
Los Gatos	30
Morgan Hill	11
Mountain View	13

Palo Alto	21
San Jose	13
Santa Clara	16
Sunnyvale	26
County percentage	16
Santa Cruz	
Capitola	21
Santa Cruz	23
Watsonville	21
County percentage	22
Shasta	
Redding	22
County percentage	22
Sierra	
Loyalton	75
County percentage	75
Siskiyou	
Dorris	18
Dunsmuir	29
Etna	18
Fort Jones	46
Montague	75
Mount Shasta	37
Tulelake	33
Yreka	30
County percentage	29
Solano	
Benicia	17
Dixon	18
Fairfield	18
Rio Vista	19
Suisun	7
Vacaville	15
Vallejo	18
County percentage	19
Sonoma	
Cloverdale	40
Cotati	40
Healdsburg	40
Petaluma	24
Rohnert Park	40
Santa Rosa	40
Sebastopol	40
Sonoma	40
County percentage	40
Stanislaus	
Ceres	14
Modesto	15
Newman	10

Oakdale	15
Patterson	20
Riverbank	18
Turlock	19
County percentage	15
Sutter	
Live Oak	17
Yuba City	17
County percentage	17
Tehama	
Corning	26
Red Bluff	39
Tehama	10
County percentage	31
Tulare	
Dinuba	21
Exeter	23
Lindsay	24
Porterville	26
Tulare	20
Visalia	17
Woodlake	15
County percentage	21
Tuolumne	
Sonora	23
County percentage	23
Ventura	
Fillmore	16
Ojai	16
Oxnard	16
Port Hueneme	16
Santa Paula	16
Ventura	16
County percentage	16
Yolo	
Davis	22
Winters	19
Woodland	20
County percentage	20
Yuba	
Marysville	15
Wheatland	38
County percentage	15

With respect to any city arrest from a city which is not set forth in the above schedule, the county percentage shall apply. A county and city therein may, by mutual agreement, adjust these percentages. Where a county and a city have, prior to June 1, 1991, entered into an agreement to adjust the percentage specified in this

section, or where a county and a city have entered into an agreement governing the distribution of revenue from parking penalties, those agreements shall remain in full force and effect until changed by mutual agreement.

SEC. 21. Section 1463.003 is added to the Penal Code, to read:

1463.003. The maximum amount of the fines and forfeitures which may be retained in the 1991–92 fiscal year by a county under this chapter shall be calculated by computing the amount of fines and forfeitures retained by the county in the 1990–91 fiscal year, plus an amount equal to 5 percent. All moneys in excess of 25 percent of that total amount shall be transferred on a monthly basis to the General Fund.

The total amount of the fines and forfeitures which may be retained in the 1991–92 fiscal year by a city under this chapter shall be calculated by computing the amount of fines and forfeitures retained by the city in the 1990–91 fiscal year plus an amount equal to 5 percent. All moneys in excess of 50 percent of that total amount shall be transferred on a monthly basis to the General Fund.

SEC. 22. Section 1463.004 is added to the Penal Code, to read:

1463.004. (a) If a sentencing judge specifies only the total fine or forfeiture, or if an automated case-processing system requires it, percentage calculations may be employed to establish the components of total fines or forfeitures, provided that the aggregate monthly distributions resulting from the calculations are the same as would be produced by strict observance of the statutory distributions.

(b) If a fund would receive less than one hundred dollars ($100) in monthly distributions of total fines and forfeitures by a particular court for at least 11 months of each year, the court may omit that fund from the system for calculating distributions, and shall instead apply the distribution provided for by Section 1463.001.

SEC. 23. Section 1463.006 is added to the Penal Code, to read:

1463.006. Any money deposited with the court or with the clerk thereof which, by order of the court or for any other reason, should be returned, in whole or in part, to any person, or which is by law payable to the state or to any other public agency, shall be paid to that person or to the state or to the other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of the court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which the money was deposited, or within one year after an order made by the court for the return or delivery of the money to any person, shall be apportioned between the city and the county and paid or transferred in the manner provided by statute for the apportionment and payment of fines and forfeitures. This paragraph controls over any conflicting provisions of law.

SEC. 24. Section 1463.009 is added to the Penal Code, to read:

1463.009. (a) All parking penalties resulting from a filing in a

court shall as soon as practicable after receipt thereof, be deposited with the county treasurer, and each month the total parking penalties which have accumulated within the past month shall be distributed, as follows:

(1) The surcharges and DMV fees shall be transferred to the proper funds as required by law.

(2) The remaining base parking penalties shall be distributed as follows:

(A) Any base parking penalties which are subject to specific distribution under any other section shall first be distributed to the specified funds.

(B) Base parking penalties resulting from notices of parking violation issued by the county, shall be transferred into the proper funds of the county.

(C) From base parking penalties resulting from notices of parking violation issued by a city, an amount equal to the applicable county percentage set forth in Section 1463.002, as modified by Section 1463.28, shall be transferred into the proper funds of the county. The remainder of base fines resulting from city arrests shall be deposited to the treasury of the appropriate city.

(b) Except as otherwise provided by agreement between the city and the court, after forwarding all surcharges and DMV fees to the proper account, a city shall retain the base parking penalties resulting from notices which it has processed with the consent of the court. Where a county and a city have, prior to June 1, 1991, entered into an agreement to adjust the percentage specified in Section 1463.002, or where a county and a city have entered into an agreement governing the distribution of revenue from parking penalties, those agreements shall remain in full force and effect until changed by mutual agreement.

(c) This section does not require any county or municipal or justice court to process a parking penalty under Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code for a city, district, or any other issuing agency prior to the filing of a complaint.

SEC. 25. Section 1463.04 is added to the Penal Code, to read:

1463.04. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month into the State Treasury to the credit of the Winter Recreation Fund an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail from any person of any violation of Section 5091.15 of the Public Resources Code, and an amount equal to the remaining 50 percent shall be transferred to the county general fund and deposited in a special account which shall be used exclusively to pay for the cost of furthering the purposes of the California SNO-PARK Permit Program, including, but not limited to, the snow removal, maintenance, and development of designated parking areas.

SEC. 26. Section 1463.7 is added to the Penal Code, to read:

1463.7. Funds transferred to the Regents of the University of California pursuant to Section 1462.3 may not be utilized to purchase land or to construct any parking facility. These funds shall be utilized for the development, enhancement, and operation of alternate methods of transportation of students and employees of the University of California and for the mitigation of the impact of off-campus student and employee parking in university communities.

SEC. 27. Section 1463.9 is added to the Penal Code, to read:

1463.9. Notwithstanding the provisions of Section 1463, 50 percent of all fines and forfeitures collected upon conviction, or upon forfeiture of bail, for violations of Section 13002 of the Health and Safety Code, Sections 23111 and 23112, and subdivision (a) of Section 23113 of the Vehicle Code, and Section 374.3 of this code shall be kept separate and apart from any other fines and forfeitures. These fines and forfeitures shall, as soon as practicable after their receipt, be deposited with the county treasurer of the county in which the court is situated and shall be distributed as prescribed in Section 1463, except that the money distributed to any county or city shall be expended only for litter cleanup activities within that city or county.

SEC. 28. Section 1463.14 is added to the Penal Code, to read:

1463.14. (a) Notwithstanding the provisions of Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account which shall be used exclusively to pay for the cost of performing for the county, or a city or special district within the county, analysis of blood, breath or urine for alcohol content or for the presence of drugs, or for services related to that testing. The sum shall not exceed the reasonable cost of providing the services for which the sum is intended.

On November 1 of each year, the treasurer of each county shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer those moneys into the general fund of the county. The county may retain an amount of that money equal to its administrative cost incurred pursuant to this section, and shall distribute the remainder pursuant to Section 1463.

(b) The Board of Supervisors of Contra Costa County may, by resolution, authorize the imposition of a fifty dollar ($50) assessment by the court upon each defendant convicted of a violation of Section 23152 or 23153 of the Vehicle Code for deposit in the account from which the fifty dollar ($50) distribution specified in subdivision (a) is deducted.

(c) The board of supervisors of a county other than Contra Costa County may, by resolution, authorize an additional penalty upon each defendant convicted of a violation of Section 23152 or 23153 of the Vehicle Code, of an amount equal to the cost of testing for alcohol

content, less the fifty dollars ($50) deposited as provided in subdivision (a). The additional penalty authorized by this subdivision shall be imposed only in those instances where the defendant has the ability to pay, but in no case shall the defendant be ordered to pay a penalty in excess of fifty dollars ($50). The penalty authorized shall be deposited directly with the county, or city or special district within the county, which performed the test, in the special account described in subdivision (a), and shall not be the basis for any additional assessment pursuant to Section 1464 or 1465, or Chapter 12 (commencing with Section 76010) of Title 8 of the Government Code.

For purposes of this subdivision, "ability to pay" means the overall capability of the defendant to pay the additional penalty authorized by this subdivision, taking into consideration all of the following:

(A) Present financial obligations, including family support obligations, and fines, penalties, and other obligations to the court.

(B) Reasonably discernible future financial position over the next 12 months.

(C) Any other factor or factors which may bear upon the defendant's financial ability to pay the additional penalty.

(d) The Department of Justice shall promulgate rules and regulations to implement the provisions of this section.

SEC. 29. Section 1463.16 is added to the Penal Code, to read:

1463.16. (a) Notwithstanding Section 1203.1 or 1463, fifty dollars ($50) of each fine for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited with the county treasurer in a special account for exclusive allocation by the county for the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to specific provision in the county alcohol program plan which is submitted to the State Department of Alcohol and Drug Programs. Programs shall be certified by the Department of Alcohol and Drug Programs or have made application for certification to be eligible for funding under this section. The county shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(b) In a county of the 1st, 2nd, 3rd, or 15th class, notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to a specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been

developed and certification is available, programs shall be certified by the State Department of Alcohol and Drug Programs or shall apply for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(c) The Board of Supervisors of Contra Costa County may, by resolution, authorize the imposition of a fifty dollar ($50) assessment by the court upon each defendant convicted of a violation of Section 23152 or 23153 of the Vehicle Code for deposit in the account from which the fifty dollar ($50) distribution specified in subdivision (a) is deducted.

(d) It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and state licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

(e) Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement.

SEC. 30. Section 1463.18 is added to the Penal Code, to read:

1463.18. (a) Notwithstanding the provisions of Section 1463, moneys which are collected for a conviction of a violation of Section 23152 or 23153 of the Vehicle Code and which are required to be deposited with the county treasurer pursuant to Section 1463 shall be allocated as follows:

(1) The first twenty dollars ($20) of any amount collected for a conviction shall be transferred to the Restitution Fund. This amount shall be aggregated by the county treasurer and transferred to the State Treasury once per month for deposit in the Restitution Fund.

(2) The balance of the amount collected, if any, shall be deposited by the county treasurer pursuant to Section 1463.

(b) The amount transferred to the Restitution Fund pursuant to this section shall be in addition to any amount of any additional fine or assessment imposed pursuant to Section 13967 of the Government Code. The amount deposited to the Restitution Fund pursuant to this section shall be used for the purpose of indemnification of victims pursuant to Section 13965 of the Government Code, with priority given to victims of alcohol-related traffic offenses.

SEC. 31. Section 1463.22 is added to the Penal Code, to read:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents ($17.50) for each alleged violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and allocated to defray costs of municipal and justice courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. The amount required to be deposited in a special account pursuant to this subdivision shall be deposited regardless of whether the charge is dismissed pursuant

to subdivision (e) of Section 16028 of the Vehicle Code or otherwise. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars ($3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those sections of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars ($10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

SEC. 32. Section 1463.23 is added to the Penal Code, to read:

1463.23. Notwithstanding Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) of each fine imposed pursuant to Section 4383 of the Business and Professions Code, subdivision (c) of Section 11350, subdivision (c) of Section 11377, or subdivision (b) of Section 11550 of the Health and Safety Code or subdivision (b) of Section 264, subdivision (m) of Section 286, subdivision (m) of Section 288a or Section 647.1, shall be deposited in a special account in the county treasury which shall be used exclusively to pay for the reasonable costs of establishing and providing for the county, or any city within the county, an AIDS (acquired immune deficiency syndrome) education program under the direction of the county health department, in accordance with Chapter 2.71 (commencing with Section 1001.10) of Title 6, and for the costs of collecting and administering funds received for purposes of this section.

SEC. 33. Section 1463.25 is added to the Penal Code, to read:

1463.25. Notwithstanding Section 1203.1 or 1463, and in addition to any allocation under Section 1463.16, the moneys from alcohol abuse education and prevention penalty assessments collected pursuant to Section 23196 of the Vehicle Code shall be initially deposited by the county treasurer in a special county alcohol abuse and prevention fund for exclusive allocation by the county alcohol program administrator, subject to the approval of the board of supervisors, for the county's alcohol abuse education and prevention program pursuant to Section 11802 of the Health and Safety Code.

A county shall not use more than 5 percent of the funds deposited in the special account for administrative costs.

SEC. 34. Section 1463.26 is added to the Penal Code, 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.

SEC. 35. Section 1464 of the Penal Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

1464. (a) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, there shall be levied a state penalty in an amount equal to ten dollars ($10) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty made thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury with 70 percent to be deposited in the State Penalty Fund, which is hereby created and 30 percent to remain on deposit in the General Fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, but in no event shall the total amount be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously

appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 5564.6 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month, until the amount deposited in the Traumatic Brain Injury Fund, as determined by the Department of Finance, for any fiscal year equals five hundred thousand dollars ($500,000). All moneys in excess of that amount shall be distributed pro rata pursuant to paragraphs (1) to (7), inclusive, and utilized in accordance with this subdivision.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (7), inclusive, of this subdivision.

SEC. 36. Section 1464.5 of the Penal Code is repealed.

SEC. 37. Section 1464.8 of the Penal Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

1464.8. Notwithstanding any other provision of law, when an allocation and distribution of any fine, forfeiture, penalty, fee, or assessment collected in any criminal case is made, including, but not limited to, moneys collected pursuant to this chapter, Section 13003 of the Fish and Game Code, Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and Sections 11372.5 and 11502 of the Health and Safety Code, the allocation and distribution of any payment may be based upon the law in effect during the accounting period when the payment is made.

SEC. 38. Section 1465 of the Penal Code is repealed.

SEC. 39. Section 97.35 of the Revenue and Taxation Code is amended to read:

97.35. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 97, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying

city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 97 in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 97, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code,

and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city, except a qualifying city as defined in Section 97.3, which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1988–89 fiscal year which is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of

property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue which was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.6.

(2) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax, except any tax which was imposed after January 1, 1988. In the case of a tax which existed before January 1, 1988, this paragraph shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts which are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

(g) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e) and (f), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount which exceeds the city's appropriations limit.

(h) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(i) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section which is less than the amount the city would have been allocated without the application of the TEA formula.

(j) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city which has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

SEC. 40. Section 22651 of the Vehicle Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway or any public lands and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway or any public lands are, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(i) (1) When any vehicle, other than a rented vehicle, is found upon a highway or any public lands, or is removed pursuant to any subdivision of this section, and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded to the agency responsible for processing notices of parking violation or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which no certificate has been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle or all traffic violations of the registered owner have been cleared, or both. A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(2) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of

disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the deposit of bail for all notices of parking violations issued for the vehicle. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt thereof, bail for all notices of parking violations issued for the vehicle.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) (1) When any vehicle is found upon a highway, any public lands, or an offstreet parking facility with a registration expiration date in excess of one year before the date it is found on the highway, public lands, or the offstreet parking facility. However, if the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(2) As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet

parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway or any public lands shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When any vehicle is illegally parked and blocks the movement of a legally parked vehicle.

SEC. 41. Section 22651.7 of the Vehicle Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

22651.7. In addition to, or as an alternative to, removal, any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations, of a city or county in which a vehicle is located may immobilize the vehicle with a device designed and manufactured for the immobilization of vehicles, on a highway located within the territorial limits in which the officer or employee may act if the vehicle is found upon the highway and is known to have been issued five or more notices of parking violation over a period of five or more days to which the owner or person in control of the vehicle has not responded or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which no certificate has been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17. The vehicle may be immobilized until that person furnishes to the immobilizing law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle or all traffic violations of the registered owner have been cleared, or both. A

notice of parking violation issued to the vehicle shall be accompanied by a warning that repeated violations may result in the impounding or immobilizing of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the immobilizing law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is immobilized. Evidence of current registration shall be produced after a vehicle has been immobilized or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

SEC. 42. Section 40611 of the Vehicle Code, as added by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

40611. Upon proof of correction of an alleged violation of Section 12500, 12951, or any violation cited pursuant to 40610 of the Vehicle Code, the clerk shall collect a ten dollar ($10) transaction fee for each case. The fee shall be deposited by the clerk in accordance with Section 68084 of the Government Code, and allocated monthly as follows:

(a) Thirty-three percent shall be transferred to the issuing local governmental entity for deposit in the general fund of the entity.

(b) Thirty-four percent shall be transferred to the State Treasury for deposit in the State Penalty Fund established by Section 1464 of the Penal Code.

(c) Thirty-three percent shall be deposited in the county general fund.

SEC. 43. Section 42007 of the Vehicle Code, as amended by Assembly Bill 1297 of the 1991–92 Regular Session, is amended to read:

42007. (a) The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a traffic violator school pursuant to Section 42005 or who attends any other court-supervised program of traffic safety instruction. The fee shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. As used in this subdivision, "total bail" means the amount established pursuant to Section 1269b of the Penal Code in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges, and penalty amounts. Where multiple offenses are charged in a single notice to appear, the "total bail" is the amount applicable for the greater of the qualifying offenses. However, the court may determine a lesser fee under this subdivision upon a showing that the defendant is unable to pay the full amount.

The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by the school or other program.

(b) Revenues derived from the fee collected under this section shall be deposited in accordance with Section 68084 of the Government Code and allocated monthly as follows:

(1) Seventy-seven percent of the amount shall be deposited in the General Fund. Effective January 1, 1992, the Treasurer shall deposit 14 percent of the moneys received under this paragraph in the State Courthouse Construction Fund.

(2) The remaining amount collected under subdivision (a) shall be deposited in the general fund of the county, provided that in any county in which a fund is established pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, the sum of one dollar ($1) for each fund so established shall be deposited with the county treasurer and placed in that fund.

(c) As used in this section, "court-supervised program" includes, but is not limited to, any program of traffic safety instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

(d) The Judicial Council shall study the minimum eligibility criteria governing drivers seeking to attend traffic violator's school, and report to the Legislature on the advisability of uniform statewide criteria on or before January 1, 1993.

(e) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected.

SEC. 44. Section 42008 of the Vehicle Code, as added by Assembly Bill 1297 of the 1911–92 Regular Session, is amended to read:

42008. (a) A state amnesty program for delinquent fines imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations, shall operate during the period of February 1, 1992, through April 30, 1992. The program shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or forfeiture was due and payable on or before April 1, 1991.

(b) Any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations, may pay to the municipal or justice court the following amount which shall be accepted in full satisfaction of the delinquent fine or bail, and the court may accept either (1) 70 percent of the total fine or bail or (2) the amount of one hundred dollars ($100) for an infraction or five hundred dollars ($500) for a misdemeanor.

(c) No criminal action shall be brought against any person for a

delinquent fine paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine made under the amnesty program.

(d) Notwithstanding Section 1463, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury and transferred to the General Fund once each month.

(e) It is the intent of the Legislature in enacting this section to preempt local amnesty programs with respect to fines or forfeitures for infractions and misdemeanor violations of the Vehicle Code. However, this section does not preempt local amnesty programs with respect to parking violations.

SEC. 45. Section 2 of the chapter of the Statutes of 1991 containing Assembly Bill 1297 of the 1991–92 Regular Session is amended to read:

Sec. 2. (a) The Legislature finds that:

(1) The State of California faces an unprecedented fiscal crisis, and its solution requires the participation of every branch of government.

(2) State and local governments and the judicial branch of government view this fiscal crisis as an opportunity to reexamine and reconstruct the roles and responsibilities of each branch.

(3) The operation and financing of municipal, superior, and justice courts, although a relatively small part of overall government spending, must be examined in light of this need for structural and financial realignment.

(4) The funding of trial court operations is most logically a candidate for state funding for each of the following reasons:

(A) State funding of trial courts provides uniform standards and procedures, economies of scale, and structural efficiency and simplification.

(B) These structural improvements provide for an improved court system, a uniform and equitable court system, and, therefor, increased access to justice for the citizens of California.

(5) Through the enactment of Assembly Bill 19 by Assembly Member Richard Robinson in 1985, Senate Bill 709 by Senator Bill Lockyer in 1987, and the Brown-Presley Trial Court Funding Act in 1988, the State of California has demonstrated its growing commitment to funding trial court operations.

(6) Although a long-stated goal of state and local government and the judicial branch, the state assumption of trial court funding has diminished, and the counties have been forced to fund a larger share of growing trial court operation costs.

(7) The growth in the costs of trial court operations can be substantially slowed through a variety of efficiencies and court coordination mechanisms.

(b) The Legislature declares its intent to do each of the following:

(1) Provide one-half the funding of trial court operations in the 1991–92 fiscal year and increase that share of funding by 5 percent

of the total costs of trial court operations per year until trial courts are 70 percent funded by the state in the 1995–96 fiscal year.

(2) Reform and streamline the collection and allocation of penalties.

(3) Improve the coordination of trial court operations through a variety of administrative efficiencies, including coordination agreements between the trial courts, and thereby achieve substantial savings in trial court operations costs.

(4) Temporarily satisfy the need for additional judgeships through enhanced use of assigned judges, increased cross-assignment of judges, and implementation of trial court delay reduction mechanisms.

(5) Increase the state's ability to fund the trial courts through increasing fines and penalties, enhanced collection of fines, penalties, and forfeitures, and the recapture of court revenues not dedicated to court operations.

(6) Create a judicial branch budgeting system that protects the independence of the judiciary and optimizes local trial court control and responsibility, while preserving financial accountability to the overall state budget.

(7) Fund court employees in a manner that promotes cost control, uniformity, and equity.

SEC. 46. Section 75 of the chapter of the Statutes of 1991 containing Assembly Bill 1297 of the 1991–92 Regular Session is amended to read:

Sec. 75. (a) The Judicial Council shall study the economic effects of decriminalizing minor violations of the Vehicle Code, and violations of ordinances, regulations, and provisions of that code governing the standing or parking of vehicles, and report to the Legislature, on or before March 1, 1992, which of those violations, if any, it recommends be decriminalized.

(b) As part of the study conducted in subdivision (a), the Judicial Council shall also examine any possible models or methods for alternative administrative resolution or adjudication of these minor violations and small claims actions outside of an adjudication in a judicial forum. Based on this examination and study, the Judicial Council shall make recommendations on an alternative forum in which to adjudicate these violations and the necessary procedures.

SEC. 47. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs, and 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 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. 48. Immediately upon the transfer of funds pursuant to Section 6140.10 of the Business and Professions Code, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Department of Education for purposes of operating and maintaining the California State Law Library pursuant to Section 6140.10 of the Business and Professions Code.

SEC. 49. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 help resolve an unprecedented fiscal crisis by providing for state funding of the operation of municipal, superior, and justice courts and the California State Law Library as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 190

An act to amend Sections 798.27 and 798.79 of the Civil Code, relating to mobilehomes.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 798.27 of the Civil Code is amended to read:

798.27. (a) The management shall give written notice to all homeowners and prospective homeowners concerning the following matters: (1) the nature of the zoning or use permit under which the mobilehome park operates. If the mobilehome park is operating pursuant to a permit subject to a renewal or expiration date, the relevant information and dates shall be included in the notice. (2) The duration of any lease of the mobilehome park, or any portion thereof, in which the management is a lessee.

(b) If a change occurs concerning the zoning or use permit under which the park operates or a lease in which the management is a lessee, all homeowners shall be given written notice within 30 days of that change. Notification regarding the change of use of the park, or any portion thereof, shall be governed by subdivision (g) of Section 798.56. A prospective homeowner shall be notified prior to

the inception of the tenancy.

SEC. 2. Section 798.79 of the Civil Code is amended to read:

798.79. (a) Any legal owner or junior lienholder who forecloses on his or her security interest in a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with this article, but only if all of the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of a mobilehome and its premises are satisfied by the foreclosing creditor as they accrue through the date the mobilehome is resold.

(b) In the event the legal owner or junior lienholder has received from the management a copy of the notice of termination of tenancy for nonpayment of rent or other charges, the foreclosing creditor's right to sell the mobilehome within the park to a third party shall also be governed by Section 798.56a.

CHAPTER 191

An act to amend Section 82047.5 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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 , county, or state 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 192

An act to amend Section 21716 of, and to add Section 21115.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 21115.1 is added to the Vehicle Code, to read:

21115.1. (a) Notwithstanding Section 21115, a local authority may, by ordinance or resolution, establish crossing zones, for use by golf carts at any time other than during darkness, on any street, other than a state highway, which has a posted speed limit of 45 miles per hour or less and which is immediately adjacent to a golf course. The crossing zones shall be at an angle of approximately 90 degrees to the direction of the roadway. The ordinance or resolution shall not become effective until submitted to the local law enforcement agency having jurisdiction over the street, the local law enforcement agency finds and determines that the conditions pertaining to that street, with the addition of proper signs, markers, or lighting, or any combination of those, will permit the establishment of a golf cart crossing with reasonable safety, and the signs, markers, or lighting specified by the local law enforcement agency are in place.

(b) Subdivision (a) does not constitute precedent for the operation of golf carts on any street or highway other than in a crossing zone established pursuant to subdivision (a).

SEC. 2. Section 21716 of the Vehicle Code is amended to read:

21716. Except as provided in Section 21115.1, no person shall operate a golf cart on any highway except in a speed zone of 25 miles per hour or less.

CHAPTER 193

An act to amend Section 50714.5 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 50714.5 of the Health and Safety Code is amended to read:

50714.5. (a) The Director's San Diego County Farmworker Housing Discretionary Account is hereby established in the Office of Migrant Services in the department. The director may make loans or grants from this account for innovative farmworker housing projects providing housing for migrant or nonmigrant farmworkers in San Diego County. All grants or loans shall be made to local public entities or private community-based nonprofit agencies which agree to own and operate the farmworker housing project under the terms and conditions prescribed by the department and which agree to provide and operate the project in compliance with habitability, admissions, eligibility, and rent provisions of other state-financed migrant farm labor centers operated by the Office of Migrant Services, except that there shall be no limitation set on the term of tenancy if the project is operated for nonmigrant farmworkers. In selecting sponsors, the director may make awards for projects serving the needs of single farmworkers, but preference shall be given to those projects primarily serving families. Funds may be used under this section for farmworker housing on either a permanent foundation or nonpermanent foundation, including manufactured housing or mobilehomes.

(b) The department shall use funds appropriated by the Legislature for purposes of this section to maximize the utility of any other local, federal, state, or private funds or other assistance made available for the purposes of this section. For purposes of soliciting and awarding funds pursuant to this section, the department is not required to promulgate regulations.

(c) To be eligible for funding, a project sponsor shall make a contribution to the housing assisted under this section. However, if the housing sponsor can demonstrate that it does not have the capability to make that contribution, no contribution shall be required. A contribution, for purposes of this subdivision, may be in the form of a write down of land costs, fee waiver, direct equivalent financial contribution, or any other incentives of financial value.

(d) The department shall accept proposals from project sponsors commencing November 15, 1989 . The department shall award grants to project sponsors commencing January 1, 1990.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act addresses a critical farmworker housing emergency in the County of San Diego that imperils the health and safety of large numbers of farmworkers. It is necessary, therefore, that this act take immediate effect.

CHAPTER 194

An act to amend Section 14560.5 of the Government Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 14560.5 of the Government Code is amended to read:

14560.5. The commission may authorize short-term financing mechanisms which do not constitute bonds or debt requiring the approval of the voters under any provision of the California Constitution pursuant to this chapter for financing seismic safety retrofit projects or to mitigate the effects of the priority given to seismic safety retrofit projects on the construction or acquisition of any project contained in the 1990 State Transportation Improvement Program and the 1990 Highway Systems Operation and Protection Plan for which the commission is authorized to allocate funds or for which the department is otherwise authorized to expend funds, and with respect to which the commission makes both of the following findings:

(a) That completion of the project proposed to be financed would be delayed solely due to a lack of funding directly attributable to the seismic safety retrofit program, causing it to be completed in a subsequent fiscal year.

(b) That before funds are expected to become available for the project to be financed, the benefits to the public are expected to exceed the expected cost of financing pursuant to the chapter. Public benefits include, but are not limited to, savings which are due to congestion reduction, reduction of property damage and injury, reduction in maintenance costs, and reduction in the costs of construction or right-of-way acquisition.

SEC. 2. Section 1 of this act shall become operative only if this bill and Senate Bill 460 are both enacted, and both contain provisions relating to seismic safety retrofit projects.

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

Due to expected delays in the construction of projects included in the 1990 State Transportation Improvement Program and the 1990 Highway Systems Operation and Protection Plan, resulting from the high priority given to seismic safety retrofit projects and the impacts of reduced fuel consumption and increased inflation, the expanded financing opportunities provided by this act are needed immediately to allow construction of transportation projects in a timely and cost-effective manner, and it is therefore necessary that this act to take effect immediately as an urgency statute.

CHAPTER 195

An act to amend Sections 14560, 14560.1, 14560.7, 14561, 14562.1, 14562.3, and 14562.4 of the Government Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 14560 of the Government Code is amended to read:

14560. (a) The Legislature hereby finds and declares that it is in the best interests of the people of California to immediately finance retrofit projects to make state highways safe during seismic events, and to offset any possible delays caused by these projects on approved state highway projects contained in the state transportation improvement program for 1990 and the 1990 Highway Systems Operation and Protection Plan and to authorize this financing from motor vehicle fuel tax revenues in order to achieve the greatest economic benefit in the completion of these projects.

(b) In order to accomplish these objectives, the Legislature has enacted this chapter.

SEC. 2. Section 14560.1 of the Government Code is amended to read:

14560.1. The Legislature further finds and declares:

(a) That additional financing mechanisms are necessary and desirable to alleviate cash-flow imbalances caused by the expected pattern of receipt of motor vehicle fuel tax revenues, in order to allow the state to proceed expeditiously to construct highway projects included in the 1990 State Transportation Improvement Program and the 1990 Highway Systems Operation and Protection

Plan, which projects might otherwise be delayed because of the high priority given to seismic safety projects.

(b) That short-term financing mechanisms to anticipate receipt of motor vehicle fuel tax revenues may result in lower net costs to the state by avoiding increases in project costs arising from price inflation.

(c) That these financing mechanisms are therefore equivalent to and consistent with the use of motor vehicle fuel taxes as provided in subdivision (a) of Section 1 of Article XIX, and are not inconsistent with Section 5 of Article XIX of the California Constitution.

SEC. 3. Section 14560.7 of the Government Code is amended to read:

14560.7. (a) Neither the department nor the commission shall enter into any agreement for professional services necessary for the preparation of or issuance of financing instruments authorized pursuant to this chapter other than for the development of the report required pursuant to subdivision (b) or authorize the issuance of any financing instruments except pursuant to a specific authorization to do so contained in the annual Budget Act.

(b) The commission shall, in cooperation and consultation with the department, develop a report which includes (1) a detailed list of earthquake retrofit projects to be funded in the immediately following fiscal year; (2) an analysis of the impact of funding the earthquake retrofit projects on other projects contained in the state transportation improvement program for 1990 and the 1990 Highway Systems Operation and Protection Plan proposed for funding in the same fiscal year; (3) a statement of the specific conditions necessitating the accelerated funding of each project to be financed, including a schedule for completion of the project and the findings made pursuant to Section 14560.5; and (4) a specific request for authorization for the commission to enter into any related agreements, or to issue financing instruments as necessary. The report shall be adopted by the commission with the concurrence of the Director of Transportation, and shall be transmitted to the Legislature and the Governor by April 1 of each year.

SEC. 4. Section 14561 of the Government Code is amended to read:

14561. The total present value of the payments to be made pursuant to all contracts or notes entered into pursuant to this chapter shall not exceed the amount necessary to mitigate the effects of the priority given to seismic safety retrofit projects on projects contained in the state transportation improvement program for 1990 and the 1990 Highway Systems Operation and Protection Plan for which the commission is authorized to allocate funds.

SEC. 5. Section 14562.1 of the Government Code is amended to read:

14562.1. If the commission determines that revenues derived from the motor vehicle fuel license tax and the use fuel tax are expected to be insufficient to pay for programmed seismic safety

projects pursuant to appropriations made by the Legislature, and also for other projects included in the 1990 State Transportation Improvement Program and the 1990 Highway Systems Operation and Protection Plan without delay, but that sufficient revenues will be received over the period ending June 30, 2000, during which those appropriations are effective, specific authorization for short-term financing has been received in the Budget Act, and the commission and the department satisfy all the other requirements of Article 2 (commencing with Section 14560.5), the commission may adopt a resolution for the issuance of notes secured as provided in this article, and may, with the approval of the Director of Finance, issue notes to satisfy the appropriations made for seismic safety and other transportation projects prior to the receipt of reasonably anticipated income to pay those appropriations.

SEC. 6. Section 14562.3 of the Government Code is amended to read:

14562.3. (a) At the discretion of the Treasurer, notes issued pursuant to this article may be one or more of the following:

(1) Negotiable.

(2) Payable to order or to bearer.

(3) Issued in any denomination.

(4) Made payable on a fixed date or upon demand of the holder of the note.

(5) Subject to prepayment or redemption at the option of the commission or at the option of the holder.

(b) Notes issued pursuant to this article (including notes issued to refund earlier notes) shall comply with all of the following requirements:

(1) Mature not later than June 30, 2000, and shall not be renewable beyond that date.

(2) Bear interest at a rate or rates to be determined and payable as provided by the resolution adopted by the commission.

(3) Contain any other provisions which the commission deems appropriate.

SEC. 7. Section 14562.4 of the Government Code is amended to read:

14562.4. Any revenues contained in the State Highway Account in the State Transportation Fund during the period ending June 30, 2000, period for which the notes are outstanding are available for the payment of those notes and the interest on them until they are fully paid and discharged. There shall be created a first lien and security interest on revenues derived from the motor vehicle fuel license tax and the use fuel tax in the State Highway Account to secure all notes issued under this article. No notes issued pursuant to this article shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this article. Every note issued pursuant to this article shall contain a recital on its face stating that neither the payment of the principal nor any part of it, nor any interest on it,

constitutes a debt, liability, or general obligation of the State of California other than as provided in this article. The commission may not pledge the credit or taxing power of the state.

SEC. 8. Sections 1 to 7, inclusive, of this act shall become operative only if this bill and AB 981 are both enacted, and both bills contain provisions relating to seismic safety retrofit projects.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to expected delays in construction of projects included in the 1990 State Transportation Improvement Program and the 1990 Highway Systems Operation and Protection Plan, resulting from the high priority given to seismic safety retrofit projects, new financing mechanisms, as provided by this act, are necessary immediately to allow construction of programmed projects in a timely and cost-effective manner.

CHAPTER 196

An act to amend Sections 8208, 8262, 8265.5, and 8477 of, and to add Section 8360.1 to, the Education Code, and to amend Item 6110-107-001 of, and to add Items 0558-001-001 and 0650-011-001 to, Section 2.00 of the Budget Act of 1991, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child care day of average daily enrollment level of service required.

(b) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity

that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.
(2) General child care and development.
(3) Intergenerational child care and development.
(4) Migrant child care and development.
(5) Schoolage parenting and infant development.
(6) State preschool.
(7) Resource and referral.
(8) Severely handicapped.
(9) Family day care.
(10) Alternative payment.
(11) Child abuse protection and prevention services.
(12) Schoolage community child care.

(i) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.

(j) "Child care and development services" means those services

designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(*l*) "Children with exceptional needs" means children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000), and meeting eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children have an active individualized education program, and are receiving appropriate special education and services, unless they are under three years of age and permissive special education programs are available. These children may be mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting.

(m) "Children with special needs" includes infants and toddlers under the age of three years; limited-English-speaking-proficient children; children with exceptional needs; limited-English-speaking-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.

(n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Severely handicapped children" are children who require instructions and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbance, or severe

mental retardation. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(r) "Health services" includes, but is not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(t) "Intergenerational center" means a facility in which child care and development services are provided, on an ongoing basis, on the same premises as senior care services, involving activities organized to provide interaction between children and seniors in a manner designed to meet the needs of both. The participation of seniors in any activity of interaction with children, as described in this subdivision, shall be voluntary.

(u) "Intergenerational staff" means persons of various generations.

(v) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(w) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(x) "Program director" means a person who, regardless of his or her title, has administrative and programmatic responsibility for a child care and development program operated at two or more sites. These persons shall hold a children's center supervision permit, or its equivalent, as specified in Section 8360, or shall demonstrate progress

in meeting these requirements by June 1, 1990, as determined by standards established by the Superintendent of Public Instruction and shall have been employed as a program director as of January 1, 1986.

(y) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(z) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to, technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(aa) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall meet the qualifications prescribed by the state licensing regulations for a child care center director. Effective July 1, 1987, these persons shall additionally hold a regular children's center instructional permit, and shall have completed not less than six units of administration and supervision coursework in child development. The Superintendent of Public Instruction may waive the requirements of this subdivision if the superintendent determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential.

(bb) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(cc) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(dd) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(ee) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to, protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ff) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(gg) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(hh) 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. If that date is not deleted or extended, then, on and after January 1, 1993, pursuant to Section 9611 of the Government Code, Section 8208 of the Education Code, as amended by Section 1 of Chapter 1120 of the Statutes of 1987, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(b) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.
(2) General child care and development.
(3) Intergenerational child care and development.
(4) Migrant child care and development.
(5) Schoolage parenting and infant development.
(6) State preschool.
(7) Resource and referral.
(8) Severely handicapped.
(9) Family day care.
(10) Alternative payment.
(11) Child abuse protection and prevention services.
(12) Schoolage community child care.

(i) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.

(j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(*l*) "Children with exceptional needs" means children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000), and meeting eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children have an active individualized education program, and are receiving appropriate special education and services, unless they are under three years of age and permissive special education programs are available. These children may be

mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting.

(m) "Children with special needs" includes infants and toddlers under the age of three years; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.

(n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Severely handicapped children" are children who require instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbance, or severe mental retardation. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(r) "Health services" includes, but is not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(t) "Intergenerational staff" means persons of various generations.

(u) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(v) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(w) "Program director" means a person who, regardless of his or her title has administrative and programmatic responsibility for a child care and development program operated at two or more sites. These persons shall hold a children's center supervision permit, or its equivalent, as specified in Section 8360, or shall demonstrate progress in meeting these requirements by June 1, 1990, as determined by standards established by the Superintendent of Public Instruction and shall have been employed as a program director as of January 1, 1986.

(x) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(y) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(z) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. A site supervisor shall meet the qualifications prescribed by the state licensing regulations for a child care center director. Effective July 1, 1987, these persons shall additionally hold a regular children's center instructional permit, and shall have completed not less than six units of administration and supervision coursework in child development. The Superintendent of Public Instruction may waive the requirements of this subdivision if the superintendent determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify

by holding an administrative credential or an administrative services credential.

(aa) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(bb) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(cc) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(dd) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ee) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(ff) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 3. Section 8262 of the Education Code is amended to read:

8262. Notwithstanding Sections 14616 and 14780 of the Government Code, the Superintendent of Public Instruction may enter into and execute local contractual agreements with any public or private entity or agency for the delivery of child care and development services or the furnishing of property, facilities, personnel, supplies, equipment, and administrative services related to the delivery of child care development services. Prior to entering into or executing a local agreement, the State Department of Education shall obtain annual approval from the Department of General Services and the Department of Finance as to the form and general content thereof. The agreements may only be made for the delivery of child care and development services, or the furnishing of property, facilities, personnel, supplies, equipment, or administrative services related thereto, which conform with the provisions of this chapter.

SEC. 4. Section 8265.5 of the Education Code is amended to read:

8265.5. In order to reflect the additional expense of serving children with special needs, the provider agency's reported child days of enrollment for these children shall be multiplied by the adjustment factors listed below.

These adjustment factors shall apply only to those programs whose assigned reimbursement rates are at or below the standard reimbursement rate.

(a) For infants and toddlers from 0 to 36 months, the adjustment factor shall be 1.4.

(b) For children with exceptional needs age 0 to 21, the adjustment factor shall be 1.2.

(c) For severely handicapped children age 0 to 21, the adjustment factor shall be 1.5.

(d) For a child at risk of neglect, abuse, or exploitation age 0 to 14, the adjustment factor shall be 1.1.

(e) For limited-English-speaking and non-English-speaking children age 2 years through kindergarten, the adjustment factor shall be 1.1.

Use of these adjustment factors shall not increase the provider agency's total annual allocation.

Days of enrollment for children having more than one special need shall not be reported under more than one of the above categories.

Reimbursement resulting from the use of the above adjustment factors shall be used for special and appropriate services for each child.

SEC. 5. Section 8360.1 is added to the Education Code, to read:

8360.1. Notwithstanding Section 8360, any person serving as an instructor or program director in a child care and development program serving only severely handicapped children, as defined in Section 8208, shall hold child care and development permits, be deemed to hold those permits as authorized by Section 8360, or shall meet one or more of the following options:

(a) Teacher meeting one of the following criteria:

(1) Has a California Special Education credential.

(2) Has an Associate of Arts degree in an area related to child development, including, but not limited to, psychology, sociology, special education, physical education, or recreational therapy, and has one year of instructional experience working with children with special needs.

(3) Has 16 semester units in an area related to child development, including, but not limited to, psychology, sociology, special education, physical education, or recreational therapy, and has two years of instructional experience working with children with special needs.

(4) Was employed in a child care and development program serving only severely handicapped children prior to January 1990.

(b) Program director meeting one of the following criteria:

(1) Has a California Special Education credential.

(2) Has a professional credential or license in a field related to child development, including, but not limited to, psychology, sociology, special education, physical education, recreational therapy, or vocational education.

(3) Was employed in a child care and development program

serving only severely handicapped children prior to January 1990.

SEC. 6. Section 8477 of the Education Code is amended to read:

8477. (a) It is the intent of the Legislature that funds be appropriated for the minor renovation and repair of publicly owned buildings as necessary to meet state licensing standards, and for the state purchase of relocatable child care and development facilities for the purpose of providing extended day care services pursuant to this article, for lease to qualifying agencies in geographic areas with no available child care and development facilities and, as to any child care and development facility acquired by a qualifying agency with funds not including state funds, for the purpose of reimbursement of initial utility service installation costs. A fund is hereby created in the State Treasury, to be known as the State Child Care Facilities Fund. All moneys in the State Child Care Facilities Fund, including any moneys deposited in that fund from any source whatsoever, are hereby continuously appropriated without regard to fiscal year for expenditure pursuant to the provisions of this article. The State Allocation Board may authorize the expenditure of any moneys in the State Child Care Facilities Fund for capital outlay projects pursuant to this article.

(b) No relocatable child care and development facility owned by the state shall be placed on privately owned land except in those areas of the state where the Superintendent of Public Instruction determines there is no available space on publicly owned land and where there are no available child care and development facilities.

(c) The Superintendent of Public Instruction shall establish the qualifications to determine the eligibility of extended day care agencies to lease relocatable facilities under this section.

(d) The Superintendent of Public Instruction shall adopt rules establishing priorities for the acquisition and leasing of facilities to agencies that will most benefit children needing extended day care services. First priority shall be given to programs that are operated in school districts that have unhoused pupils, as determined under state standards established pursuant to Chapter 22 (commencing with Section 17700) of Part 10, and have developed a plan to provide extended day care services in a cost-effective manner. Each lessee shall be required to demonstrate that program operations in relocatable facilities are primarily for extended day care services which comply with cost-effective minimum program standards established by the superintendent.

(e) Although primary use of relocatable facilities shall be for extended day care programs, those facilities may be used for other purposes if the following conditions are met:

(1) The alternative use of the facility does not infringe upon the accessibility of extended day care programs.

(2) The State Department of Education authorizes alternative use as being compatible with extended day care programs.

(f) The State Allocation Board, with the advice of the Superintendent of Public Instruction, may do all of the following:

(1) Establish any procedures and policies in connection with the administration of this section that it deems necessary.

(2) Adopt any rules and regulations for the administration of this section requiring those procedures, forms, and information that it deems necessary.

(3) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place relocatable extended day care services facilities where needed.

(g) The board shall lease relocatable facilities to qualifying extended day care services agencies and shall charge rent of one dollar ($1) per year. The board shall require lessees to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee. Neither the board nor the state shall assume any responsibility for utility services costs other than initial installation costs reimbursed under this article, and the agency shall provide adequate safeguards to protect the state's interest in this regard.

(h) The board shall require lessees to insure at their own expense for the benefit of the state, any leased relocatable facility that is the property of the state, against any risks, including liability from the use thereof, in the amounts the board deems necessary to protect the interests of the state. Neither the board nor the state shall assume any responsibility for utility services costs other than initial installation costs reimbursed under this article, and the agency shall provide adequate safeguards to protect the state's interest in this regard.

(i) No relocatable facilities shall be made available to an agency unless the agency furnishes evidence, satisfactory to the board, that the agency has no other facility available for rental, lease, or purchase in the geographic service area that is economically or otherwise feasible.

(j) The board shall have prepared for its use, performance specifications for relocatable facilities and bids for their construction that can be solicited from more than one responsible bidder. The board shall from time to time solicit bids from, and award to, the lowest responsible competitive bidder, contracts for the construction or purchase of relocatable facilities that have been approved for lease to eligible extended day care services agencies.

(k) If at any time the board determines that a lessee's need for particular relocatable facilities that were made available to the lessee pursuant to this article has ceased, the board may take possession of the relocatable facilities and may lease them to other eligible contracting agencies, or, if there is no longer a need for the relocatable facilities, the board may dispose of them to public or private parties in the manner it deems to be in the best interests of the state.

(*l*) If a lessee uses a particular relocatable facility for only a portion of the year, the board may enter into a second lease with a public or private party for the use of that facility for the portion of

the year during which the facility would otherwise be unused, in the manner it deems to be in the best interests of the state. The lessee shall be subject to subdivisions (f) and (h).

SEC. 7. Item 6110-107-001 of Section 2.00 of the Budget Act of 1991 is amended to read:

6110-107-001—For local assistance, State 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 31,000,000

SEC. 8. Item 0558-001-001 is added to Section 2.00 of the Budget Act of 1991, to read:

0558-001-001—For support of the Secretary for Child Development and Education Agency 1,094,155

Provisions:

1. The amount provided in this item is intended for support of the Secretary for Child Development and Education Agency. The appropriation is an estimate of the funding needs from January 1, 1992, to June 30, 1992. Legislation establishing the agency is currently pending and, if enacted, would be effective January 1, 1992. In the event that legislation creating the agency is not enacted or the effective date is delayed, the Director of Finance is authorized to transfer expenditure authority from this item to Item 0650-011-001.
2. On or before January 31, 1992, the Secretary for Child Development and Education Agency shall report to the Governor and the Legislature on the agency's activities and progress in providing a coordinated children's service system.

SEC. 9. Item 0650-011-001 is added to Section 2.00 of the Budget Act of 1991, to read:

0650-011-001—For support of Office of Planning and Research 880,000

Provisions:

1. The amount provided in this item is intended for support of the Secretary for Child Development and Education Agency. The appropriation is an estimate of the funding needs from July 1, 1991,

to December 31, 1991. Legislation establishing the agency is currently pending, and if enacted would be effective January 1, 1992. After December 31, 1991, and upon determination that all obligations of the agency in the Office of Planning and Research have been met, the Director of Finance is authorized to transfer expenditure authority not used by the agency and remaining in this item to Item 0558-001-001.

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 implement the package affecting the fiscal affairs of the State of California for the 1991–92 fiscal year as reflected by the contents of this act, it is necessary for this act to take effect immediately.

CHAPTER 197

An act to amend Section 15610 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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, optometrist, 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.

CHAPTER 198

An act to amend Section 31633 of the Water Code, and to amend Section 15.4 of the Desert Water Agency Law (Chapter 1069 of the Statutes of 1961), relating to water.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 31633 of the Water Code is amended to read:

31633. The amount of any replenishment assessment levied within an area of benefit shall be established in the discretion of the board, except that no assessment shall exceed the sum of the following costs and charges:

(a) Those charges under the contract between the Coachella Valley Water District and the state for an imported water supply

from the State Water Resources Development System consisting of the variable operation, maintenance, power, and replacement component of the transportation charge, the off-aqueduct power facilities component of the transportation charge, the delta water charge, and any surplus water or unscheduled water charge, and such sums as are paid by the district to the Desert Water Agency for payment of similar charges under a similar contract the agency has with the state as provided in the water management agreement of July 1, 1976, as amended.

(b) The cost of importing and recharging water from sources other than the State Water Resources Development System.

(c) The cost of treatment and distribution of reclaimed water.

SEC. 2. Section 15.4 of the Desert Water Agency Law (Chapter 1069 of the Statutes of 1961) is amended to read:

15.4. The agency shall have the power to levy and collect water-replenishment assessments, as provided in this section, for the purpose of replenishing groundwater supplies within the agency.

(a) As used in this section:

(1) "Annual" or "year" means a calendar year unless the context indicates a contrary meaning.

(2) "Fiscal year" means the period of July 1 to June 30, inclusive.

(3) "Production" or "produce" means the extraction of groundwater by pumping or any other method within the boundaries of the agency, or the diversion within the agency of surface supplies which naturally replenish the groundwater supplies within the agency and are used therein.

(4) "Producer" means any individual, partnership, association or group of individuals, lessee, firm, private corporation, or any public agency or public corporation, including, but not limited to, the Desert Water Agency.

(5) "Minimal pumper" means any producer who produces 10 or fewer acre-feet in any year.

(6) "Supplemental water" means water from the State Water Resources Development System, or from the Colorado River Aqueduct of the Metropolitan Water District of Southern California, or from any other source which is not part of the natural replenishment of the groundwater supplies within the agency, including reclaimed water.

(b) By May 1 of each year, the board shall cause to be prepared and presented to it an engineering survey and report concerning the groundwater supplies within the agency. The report shall include the condition of those groundwater supplies, the need for replenishment, and recommendations for any replenishment program, including the source and amount of replenishment water and the cost of purchasing, transporting and spreading the water. In connection with any proposed replenishment program, the report shall also describe the area or areas benefited, either directly or indirectly, the amount of water production in each area during the prior year, and shall recommend the amount of assessment to be

levied upon all production within each area or areas of benefit.

(c) If the board determines that funds should be raised by a replenishment assessment, it shall call a public hearing and shall publish notice at least 10 days in advance thereof pursuant to Section 6061 of the Government Code. Notice shall also be mailed by the agency to all producers as disclosed by the records of the agency who may be affected by the recommended assessment. Failure of any affected producers to receive the notice shall not affect the validity of any subsequent replenishment assessment. The notice shall contain the time and place of the hearing, a generalized or common description of each area of benefit, the amount of each recommended replenishment assessment, and an invitation to all interested parties to attend and be heard in support of or in opposition to the proposed assessment. The notice shall also state that a copy of the engineering report is available for inspection at the office of the agency.

(d) The hearing shall be held before the board, and a quorum shall be present. The hearing may be adjourned from time to time by the president. All evidence relevant to the engineering survey and report, the recommendation that a replenishment assessment pursuant to this section be levied, and the determination of the area benefited by such assessment and replenishment program, may be introduced. Upon completion of the hearing, the board shall, by resolution, make specific findings on all facts relevant and material to the purposes for which a replenishment assessment, if any, may be levied under this section. If the agency establishes a replenishment program and levies assessments, and the program is continued in subsequent years without substantial change and at the same rate of assessment, the board may dispense with the notice, hearing, and findings required by subdivisions (c) and (d).

(e) Before July 1 of each year, the board may by resolution levy a replenishment assessment upon all water production during the following fiscal year within each area of benefit as determined by the board. The assessment within each area of benefit shall be at a uniform rate per acre-foot. The resolution shall also state the time or times at which such assessment shall be due and payable, which may be in convenient installments as determined by the board.

(f) The amount of any replenishment assessment levied within an area of benefit shall be established in the discretion of the board, except that no assessment shall exceed the sum of the following costs and charges:

(1) Those charges under the contract between the Desert Water Agency and the state for an imported water supply from the State Water Resources Development System consisting of the variable operation, maintenance, power, and replacement component of the transportation charge, the off-aqueduct power facilities component of the transportation charge, the delta water charge, and any surplus water or unscheduled water charge.

(2) The cost of importing and recharging water from sources

other than the State Water Resources Development System.

(3) The cost of treatment and distribution of reclaimed water.

(g) Minimal pumpers may be excluded from the engineering survey and report on water production, and they shall be exempt from any replenishment assessments and reporting provisions under this section.

(h) The agency, after the levying of any replenishment assessment, shall give notice thereof to all affected producers as disclosed by the records of the agency. The notice shall state the rate of assessment for each acre-foot of production during the fiscal year for which the assessment has been levied, and the dates when the assessment or installments thereof are due and payable. The notice shall be sent by first-class mail with the postage prepaid by the district.

(i) Except as provided in subdivision (k), each producer, on or before the dates when the assessment or installments thereof are due and payable, shall file with the agency a sworn statement setting forth the total quantity of water production in acre-feet which are subject to the replenishment assessment. The production shall be reported as of the end of the month immediately preceding the payment date. The statement shall be on a form prepared by the agency and, to the extent practicable, shall identify separately the production from each well or other water-producing facility. The statement shall also include a general description or number locating the well or water-producing facility, the method or basis of the measurement or computation of production, and any other information the agency may require.

(j) Any replenishment assessment levied pursuant to this section shall be due and payable to the agency at the time or times determined by the agency and stated in the notice of levy, and shall accompany the statement required from each producer.

(k) If the agency has an agreement with any producer whereby the agency regularly reads and maintains the water-measuring devices which record the production of the producer, the producer shall be exempt from the provisions of subdivision (i). In lieu thereof, the agency shall send the producer notice of its production and the amount of the replenishment assessment or installment due.

(*l*) If any producer subject to a replenishment assessment, after notice has been given pursuant to subdivision (h), fails to pay a replenishment assessment or installment thereof when due, the producer shall become liable to the agency for interest at the rate of 1 percent per month on the delinquent amount.

(m) If any producer, subject to a replenishment assessment, knowingly fails to file the water-production statement, the producer shall, in addition to interest as provided in subdivision (*l*), become liable to the agency for a penalty of one hundred fifty dollars ($150).

(n) If the agency has probable cause to believe that the production by any producer is unreported or, if reported, is substantially in excess of that disclosed by the statement filed by the

producer, the agency shall cause an investigation and report to be made concerning that production. The board shall thereupon determine and fix the correct amount of production for the producer, and give written notice thereof. A determination made by the board shall be binding upon the producer, and the replenishment assessments based thereon together with interest and penalties shall be payable immediately, unless the producer files with the board, within 10 days after the mailing of notice, a written protest setting forth the grounds of protest. Upon the filing of a protest, the board shall hold a hearing at which time the total amount of production and the replenishment assessment shall be determined, and the interest and penalties fixed, which action shall be conclusive if based upon substantial evidence. A notice of the hearing shall be mailed to the protestant at least 10 days before the date fixed for the hearing. Notice of the determination by the board shall be mailed to the protestant. The producer shall have 20 days from the date of mailing of the notice to pay the replenishment assessment, interest, and penalties fixed by the board.

(o) The agency may, in any court having jurisdiction, bring suit against any producer to enjoin any water production in violation of any of the provisions of this section, and to collect any delinquent replenishment assessments, interest or penalties. The court may award interest, costs, and attorney's fees on any judgment.

(p) It is unlawful to produce water from within any area of benefit after one year following the levy of a replenishment assessment within the area, unless the well or other water-producing facility producing the water has a water-measuring device affixed thereto which is capable of measuring and registering the accumulated amount of water produced. The provisions of this subdivision shall not be applicable to minimal pumpers. Violation thereof shall be punishable by a fine not to exceed three hundred dollars ($300), or by imprisonment in the county jail for not to exceed 30 days, or by both fine and imprisonment.

CHAPTER 199

An act to amend Section 480.3 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 480.3 of the Revenue and Taxation Code is amended to read:

480.3. (a) Each county assessor and recorder shall make available, without charge and upon request, a form entitled

"Preliminary Change of Ownership Report," which transferees of real property shall complete and may file with the recorder concurrent with the recordation of any document effecting a change in ownership. The form shall be signed by the transferee or an officer of the transferee and shall not be signed by an agent acting for a transferee.

(b) If a document evidencing a change in ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change in ownership report, the recorder may charge an additional recording fee of twenty dollars ($20).

(c) Noncompliance with this section by the transferee shall not delay or preclude the recordation of documents if the additional fee specified in subdivision (b) is tendered.

(d) The authority to obtain information pursuant to this section is in addition to, and not in lieu of, any existing authority the assessor has under this article.

(e) In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information given to the assessor pursuant to Sections 3716 and 3811 shall be deemed to constitute compliance with this section.

(f) The filing of a preliminary change of ownership report or the payment of an additional recording fee shall not be required of any intermediate transferee of property, or of any trustee issuing a trustee's deed to the mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees, pursuant to the exercise of a power of sale contained in a deed of trust or mortgage pursuant to Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, "intermediate transferee" means any transferee who is acting as both a transferee and the transferor of the same property as part of a series of simultaneous transfers which affect that property and who records the transfer documents and any other recorded documents related to the transfer in consecutive order at one time.

(g) Except as prescribed in subdivisions (e) and (f), this section shall apply to changes of ownership occurring on or after July 1, 1985.

SEC. 2. Section 480.3 of the Revenue and Taxation Code, is amended to read:

480.3. (a) Each county assessor and recorder shall make available, without charge and upon request, a form entitled "Preliminary Change of Ownership Report," which transferees of real property shall complete and may file with the recorder concurrent with the recordation of any document effecting a change in ownership. The form shall be signed by the transferee or an officer of the transferee and shall not be signed by an agent acting for a transferee.

(b) Except as provided in paragraph (1) of subdivision (f), if a document evidencing a change in ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change in ownership report, the recorder may charge an

additional recording fee of twenty dollars ($20).

(c) Except with respect to an intermediate transferee of real property, noncompliance with this section by the transferee shall not delay or preclude the recordation of documents if the additional fee specified in subdivision (b) is tendered.

(d) The authority to obtain information pursuant to this section is in addition to, and not in lieu of, any existing authority the assessor has under this article.

(e) In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information given to the assessor pursuant to Sections 3716 and 3811 shall be deemed to constitute compliance with this section.

(f) (1) An intermediate transferee of real property shall not be permitted to pay an additional recording fee pursuant to subdivision (b) or to fulfill any alternative requirement in lieu of filing a preliminary change in ownership report as required by this section.

(2) For purposes of this section, "intermediate transferee" means any transferee who is acting as both a transferee and the transferor of the same property as part of a series of simultaneous transfers which affect that property and who records the transfer documents and any other recorded documents related to the transfer in consecutive order at one time.

(3) The filing of a preliminary change in ownership report or the payment of an additional recording fee shall not be required of any trustee issuing a trustee's deed to the mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees, pursuant to the exercise of a power of sale contained in a deed of trust or mortgage pursuant to Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code.

(g) Except as prescribed in subdivision (e) and paragraph (3) of subdivision (f), this section shall apply to changes of ownership occurring on or after July 1, 1985.

SEC. 3. Section 2 of this bill incorporates amendments to Section 480.3 of the Revenue and Taxation Code proposed by both this bill and SB 77. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 480.3 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 77, in which case Section 1 of this bill shall not become operative.

CHAPTER 200

An act to amend Section 24400 of the Health and Safety Code, relating to abandoned excavations.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 24400 of the Health and Safety Code is amended to read:

24400. (a) Every person owning land in fee simple or in possession thereof under lease or contract of sale who knowingly permits the existence on the premises of any abandoned mining shaft, pit, well, septic tank, cesspool, or other abandoned excavation dangerous to persons legally on the premises, or to minors under the age of 12 years, who fails to cover, fill, or fence securely that dangerous abandoned excavation and keep it so protected, is guilty of a misdemeanor.

(b) Every person owning land in fee simple or in possession thereof under lease or contract of sale who knowingly permits the existence on the premises of any permanently inactive well, cathodic protection well, or monitoring well which constitutes a known or probable preferential pathway for the movement of pollutants, contaminants, or poor quality water, from above ground to below ground, or vertical movement of pollutants, contaminants, or poor quality water below ground, and that movement poses a threat to the quality of the waters of the state, shall be guilty of a misdemeanor.

(c) For purposes of this section, "well" includes any of the following:

(1) A "monitoring well" as defined by Section 13712 of the Water Code.

(2) A "cathodic well" as defined by Section 13711 of the Water Code.

(3) A "water well" as defined by Section 13710 of the Water Code.

(d) A "permanently inactive well" is a well which has not been used for a period of one year, unless the person owning land in fee simple or in possession thereof under lease or contract of sale demonstrates an intent for future use for water supply, ground water recharge, drainage, or ground water level control, heating or cooling, cathodic protection, ground water monitoring, or related uses. A well owner shall provide evidence to the county health officer of an intent for future use of an inactive well by maintaining the well in a way that the following requirements are met:

(1) The well shall not allow impairment of the quality of water within the well and ground water encountered by the well.

(2) The top of the well or well casing shall be provided with a cover, that is secured by a lock or by other means to prevent its

removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, such as in a vault or below known levels of flooding. The cover shall be watertight if the well is inactive for more than five consecutive years. A pump motor, angle drive, or other surface feature of a well, when in compliance with the above provisions, shall suffice as a cover.

(3) The well shall be marked so as to be easily visible and located, and labeled so as to be easily identified as a well.

(4) The area surrounding the well shall be kept clear of brush, debris, and waste materials.

(e) At a minimum, permanently inactive wells shall be destroyed in accordance with standards developed by the Department of Water Resources pursuant to Section 13800 of the Water Code and adopted by the State Water Resources Control Board or local agencies in accordance with Section 13801 of the Water Code. Minimum standards recommended by the department and adopted by the state board or local agencies for the abandonment or destruction of ground water monitoring wells or class 1 hazardous injection wells shall not be construed to limit, abridge, or supersede the powers or duties of the State Department of Health Services, in accordance with Section 13801 of the Water Code.

(f) Nothing in this section is a limitation on the power of a city, county, or city and county to adopt and enforce additional penal provisions regarding the types of wells and other excavations described in subdivisions (a) and (b).

CHAPTER 201

An act to amend Sections 186.22 and 186.27 of the Penal Code, relating to crimes.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 186.22 of the Penal Code, as added by Section 5.1 of Chapter 930 of the Statutes of 1989, is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by imprisonment in the county jail for a period not to exceed one year, or by imprisonment in the state prison for one, two, or three years.

(b) (1) Except as provided in paragraph (2), any person who is convicted of a felony which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of the sentencing.

(2) Any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life, shall not be paroled until a minimum of 15 calendar years have been served.

(c) Any person who is convicted of a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in the county jail.

(d) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(7) The intimidation of witnesses and victims, as defined in Section 136.1.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (7), inclusive, of subdivision (e), which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) This section shall become operative on January 1, 1993. This section shall remain in effect only until January 1, 1997, and as of that date is repealed.

SEC. 2. Section 186.27 of the Penal Code is amended to read:

186.27. This chapter shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1997, 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 202

An act to amend Section 21200.6 of, and to add Sections 21200.1, 21201.1, and 21201.2 to, the Financial Code, relating to pawnbrokers.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 21200.1 is added to the Financial Code, to read:

21200.1. A loan setup fee not to exceed two dollars ($2) may be charged for each loan, in addition to any other allowed charges.

SEC. 2. Section 21200.6 of the Financial Code is amended to read:

21200.6. (a) In addition to other allowed charges, a pawnbroker may collect at the time the property is redeemed a handling and storage charge for each article pawned. Irrespective of the duration of time that an article is held in pledge, the maximum amount that may be charged pursuant to this section is in accordance with the following schedule:

(1) Three dollars ($3) for any article that cannot be contained within one cubic foot.

(2) Nine dollars ($9) for any article that cannot be contained within three cubic feet.

(3) Eighteen dollars ($18) for any article that cannot be contained within six cubic feet.

(4) One dollar ($1) for each additional cubic foot, in excess of six cubic feet, required to contain the car, boat, trailer, motorcycle, truck, or recreational vehicle.

(b) No additional charge is allowed for any article that can be contained within one cubic foot.

(c) For purposes of this section, cubic feet shall be determined by multiplying the width of an article, at its greatest width, by the depth of an article, at its greatest depth, by the height of an article, at its greatest height.

SEC. 3. Section 21201.1 is added to the Financial Code, to read:

21201.1. Whenever a pledger, or his or her assignee, loses a pawn ticket, a fee of not to exceed ten dollars ($10) may be charged for services of verifying the identification of the claimant, fingerprinting the claimant, and having the claimant execute a declaration under penalty of perjury.

SEC. 4. Section 21201.2 is added to the Financial Code, to read:

21201.2. If the pledger fails to redeem any pawned item during the redemption period, thereby obliging the pawnbroker to mail the notice required under Section 21201, the pawnbroker may charge a fee of up to two dollars ($2) for services and costs pertaining to the preparation of the notice, in addition to any other allowed charges.

CHAPTER 203

An act to amend Section 7056 of the Revenue and Taxation Code, relating to sales and use taxes.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 7056 of the Revenue and Taxation Code is amended to read:

7056. (a) (1) Excepting the information set forth on permits issued under Article 2 (commencing with Section 6066) of Chapter 2, it is unlawful for the board, any person having an administrative duty under this part or any person who obtains access to information contained in, or derived from, sales or transactions and use tax records of the board pursuant to subdivision (b), to make known in any manner whatever the business affairs, operations, or any other information pertaining to any retailer or any other person required to report to the board or pay a tax pursuant to this part, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person.

(2) It is also unlawful for any person, other than an officer or employee of a county, city and county, city, or district, who obtains access to information contained in, or derived from, sales or transactions and use tax records of the board pursuant to subdivision (b), to retain that information after that person's contract with the county, city and county, city, or district has expired.

(3) Notwithstanding paragraphs (1) and (2), the Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(b) When requested by resolution of the legislative body of any county, city and county, city, or district, the board shall permit any duly authorized officer or employee of the county, city and county, city, or district, or other person designated by that resolution, to examine all of the sales or transactions and use tax records of the board pertaining to sales or transactions and use taxes collected for the county, city and county, city, or district by the board pursuant to contract entered into between the board and the county, city and county, city, or district under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the

Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(1) The resolution shall certify that any person designated by the resolution, other than an officer or employee, meets all of the following conditions:

(A) Has an existing contract with the county, city and county, city, or district to examine those sales or transactions and use tax records.

(B) Is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of the county, city and county, city, or district who is authorized by the resolution to examine the information.

(C) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract.

(D) Is prohibited by that contract from retaining the information contained in, or derived from, those sales or transactions and use tax records, after that contract has expired.

(2) Information obtained by examination of board records as permitted in this subdivision shall be used only for purposes related to the collection of local sales or transactions and use taxes by the board pursuant to the contract, or for purposes related to other governmental functions of the county, city and county, city, or district set forth in the resolution.

(c) If the board believes that any information obtained pursuant to subdivision (b) has been disclosed to any person not authorized or designated by the resolution of the legislative body of the county, city and county, city, or district, or has been used for purposes not permitted by subdivision (b), then notwithstanding subdivision (b), the board may impose conditions on access to its sales and use tax records which the board considers reasonable, in order to protect the confidentiality of those records.

(d) Predecessors, successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

CHAPTER 204

An act to amend Sections 260, 261, and 649 of the Military and Veterans Code, relating to the armed forces.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 260 of the Military and Veterans Code is amended to read:

260. The following shall be causes for discharge of enlisted personnel:

(a) Expiration of term of service.

(b) Attainment of the age of 64 years.

(c) Acceptance of appointment as a commissioned officer in the state or federal service.

(d) To enlist in the United States Army, Navy, Marine Corps, or Coast Guard.

(e) To accept appointment in the United States Military Academy, Naval Academy, or Coast Guard Academy.

(f) To accept appointment as a flying cadet.

(g) To re-enlist.

(h) Discontinuance of the organization in which the person is serving.

(i) Change of residence.

(j) Certificate of disability.

(k) Inaptness or misconduct.

(*l*) Fraudulent enlistment.

(m) Action of civil or military court.

(n) Draft into the service of the United States.

(o) Business or educational interference.

(p) Any other reason which the Governor deems adequate and satisfactory.

(q) For the best interests of the military service.

(r) For the good of the service.

(s) For absence without leave.

SEC. 2. Section 261 of the Military and Veterans Code is amended to read:

261. (a) Except as provided in subdivision (b), the discharge of enlisted personnel under the provisions of Section 260 shall be effected by order of the Governor, under such regulations as may be prescribed, or as may be authorized by the laws and regulations prescribed for the government of the National Guard by the United States and which are not inconsistent with this code.

(b) The Adjutant General may discharge a person who is absent without leave for a period of 90 days or more. The discharge under this subdivision shall be a general discharge under honorable

conditions.

SEC. 3. Section 649 of the Military and Veterans Code is amended to read:

649. (a) The Adjutant General may adopt, from time to time, any rules, regulations, and orders not inconsistent with this code which he or she deems necessary to carry into effect this chapter.

(b) The Adjutant General may present duplicate medals or ribbons or other decorations authorized by this code to the next of kin of any deceased member of the National Guard, if the original decorations are inadvertently lost or destroyed.

CHAPTER 205

An act to amend Section 19890 of the Health and Safety Code, relating to garage door openers.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 19890 of the Health and Safety Code is amended to read:

19890. (a) On or after January 1, 1991, no person, corporation, or entity shall manufacture for sale in this state, purchase, sell or offer for sale at retail or wholesale, or install in this state, a residential automatic garage door opener that does not have an automatic reverse safety device which complies with the applicable standards set forth in the Underwriters Laboratories Inc., Standard for Safety-ANSI/UL 325-30.1 and 325-30.2, Third Edition, as revised May 4, 1988.

(b) In addition to the requirements of subdivision (a), on or after January 1, 1993, no person, corporation, or entity shall manufacture for sale in this state, purchase, sell or offer for sale at retail or wholesale, or install in this state, any residential automatic garage door opener unless, in order to operate, it requires the inclusion of a tactile garage door edge sensor, an optical sensor, or a similar device that when activated is designed to cause a closing door to open and prevent an open door from closing. This device shall be designed to operate in a manner so that the interruption or misalignment of the device or an opening or short in the wires between the device and the power head would cause a closing door to open and prevent an open door from closing. Notwithstanding any other provision of this subdivision, a garage door opener that is manufactured prior to January 1, 1993, and that is in the possession of a retailer or wholesaler on January 1, 1993, may be purchased, sold, offered for sale, and installed on or before July 1, 1993, provided the garage door opener is in compliance with subdivision (a).

(c) On or after January 1, 1991, any manufacturer selling or offering for sale residential automatic garage door openers in this state shall comply with federal labeling requirements for automatic residential garage door openers contained in Section 203 of Public Law 101-608.

(d) On and after January 1, 1991, any manufacturer, distributor, wholesaler, or retailer, selling or offering for sale residential automatic garage door openers in this state shall include with each automatic garage door opener a set of installation, operation, maintenance, and testing instructions. On or after January 1, 1991, any person installing, servicing, or repairing a residential automatic garage door opener shall comply with those instructions.

(e) On and after January 1, 1993, any person hired to service or repair any residential automatic garage door opener shall, upon completion of the service or repair, if any, determine whether it reverses upon contact with a rigid two-inch high obstacle placed on the surface beneath the garage door. If the residential automatic garage door opener does not pass the test, the person shall complete and conspicuously affix to the residential automatic garage door opener, a red certificate as follows:

WARNING!

This garage door opener, when tested on this date, did not reverse upon contact with a two-inch high rigid obstacle placed on the surface beneath the garage door, and may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code.

Address [location of automatic garage door opener]: _____

Manufacturer [if known]: _____
Date of manufacture [if known]: _____
Serial No. [if any]: _____
Model No. [if any]: _____

[signed] _____ [date] _____
[print name] _____
[firm name and address] _____

(f) This chapter shall apply to all automatic garage door openers

manufactured and sold for use in any residence. This chapter shall also apply to automatic garage door openers manufactured for commercial purposes, but sold for, or installed, in a residence because the commercial opener was necessary to meet the specific application requirements of that installation. Residential applications of garage door openers manufactured for commercial purposes shall comply with this chapter, and be installed according to the manufacturer's instructions, except that the applicable standard shall be the Underwriters Laboratories Inc., Standard for Safety-ANSI/UL 325-29 in lieu of the Underwriters Laboratories Inc., Standard for Safety-ANSI/UL 325-30.1 and 325-30.2.

(g) For the purposes of this chapter:

(1) "Residential" shall define a device or structure which is part of, affixed to, or associated with, a residence.

(2) "Residence" means a building which contains from one to four single-family dwelling units.

(3) "Garage" means an enclosed and covered shelter for one or more automobiles, which may be attached to, or detached from but associated with, a residence. "Garage" does not include an unenclosed automobile parking area nor an unenclosed, covered carport.

(4) "Garage door" means a structure which serves as an overhead, vertical-moving barrier to the opening which serves as the automobile entrance to the garage. "Garage door" does not include structures which operate in a sliding or horizontal motion.

(h) On or after January 1, 1992, no new residential garage door shall be installed in a manner which connects the replacement door to a residential automatic garage door opener which is not in compliance with the standards specified in this chapter regardless of the date of manufacture of the residential automatic garage door opener.

CHAPTER 206

An act to amend Item 1760-301-768 of Section 2.00 of Chapter 467 of the Statutes of 1990, relating to state buildings, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Item 1760-301-768 of Section 2.00 of Chapter 467 of the Statutes of 1990 is amended to read:

1760-301-768—For capital outlay, Department of General Services, payable from the Earthquake Safety and Public Buildings Rehabilitation Bond Act of 1990 32,225,000

Schedule:

(1) 50.40.019-San Francisco State Office Building (350 McAllister Street)—renovation, expansion and seismic upgrade (base isolation technology)—preliminary plans and working drawings	6,500,000
(2) 50.40.020-San Francisco State Office Building (525 Golden Gate Avenue)—seismic retrofit, fire, life safety improvements, and renovation—preliminary plans, working drawings, and construction	14,800,000
(3) 50.40.035-Facilities study.....	925,000
(4) 50.40.040-Consumer Affairs Building, Sacramento—renovation and seismic upgrade (base isolation technology)—preliminary plans, working drawings, and construction	10,000,000

Provisions:

1. The funds appropriated in category (3) will provide for an assessment of state facilities needs, environmental assessments, and site evaluation and preprogramming requirements in the San Francisco-Oakland Bay area necessitated by the Loma Prieta earthquake.

SEC. 2. In accordance with subdivision (b) of Section 2.00 of Chapter 467 of the Statutes of 1990, the funds appropriated in category (4) of Item 1760-301-768 of Section 2.00 of Chapter 467 of the Statutes of 1990, proposed by Section 1 of this act, shall be available for expenditure during the 1990–91, 1991–92, and 1992–93 fiscal years.

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

This act makes an appropriation that is necessary for the immediate correction of deficiencies in the safety and stability of state buildings that present an imminent threat of injury to property and persons.

CHAPTER 207

An act to amend Section 10237.2 of the Business and Professions Code, relating to real property securities dealers.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 10237.2 of the Business and Professions Code is amended to read:

10237.2. As used in this article "sale" or "sell" includes every issuance, creation for resale, disposition or attempt to dispose of any interest in a real property security for value and includes all of the following, whether done directly or by circular letter, advertisement, radio or television broadcast or otherwise: an offer to sell, an attempt to sell, a solicitation of a sale, a contract of sale or an exchange. A sale shall be complete upon delivery of the promissory note evidencing a transaction arranged pursuant to a permit issued under this article to the purchaser or an agent designated by the purchaser.

In connection with a completed sale made pursuant to this article the purchaser shall be the owner of the note, irrespective of other potential characterizations of the purchaser's interest in the transaction.

CHAPTER 208

An act to amend Section 37001 of the Health and Safety Code, relating to housing.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 37001 of the Health and Safety Code is amended to read:

37001. The term "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations, which meets any one of the following criteria:

(a) (1) The development is privately owned housing, receiving no ad valorem property tax exemption not fully reimbursed to all taxing entities; and (2) not more than 49 percent of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.

(c) The development is intended for owner-occupancy, which may include a limited equity housing cooperative as defined in Section 50076.5, or cooperative or condominium ownership, rather than for rental-occupancy.

(d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

(e) The development consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.

(f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households, as defined in Section 50079.5.

SEC. 2. Section 37001 of the Health and Safety Code is amended to read:

37001. The term "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations, which meets any one of the following criteria:

(a) (1) The development is privately owned housing, receiving no ad valorem property tax exemption not fully reimbursed to all taxing entities; and (2) not more than 49 percent of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.

(c) The development is intended for owner-occupancy, which may include a limited equity housing cooperative as defined in Section 50076.5, or cooperative or condominium ownership, rather than for rental-occupancy.

(d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

(e) The development consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.

(f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households, as defined in Section 50079.5.

(g) The development consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a rental housing development which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state

public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

SEC. 3. Section 2 of this bill incorporates amendments to Section 37001 of the Health and Safety Code proposed by both this bill and SB 912. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 37001 of the Health and Safety Code, and (3) this bill is enacted after SB 912, in which case Section 1 of this bill shall not become operative.

CHAPTER 209

An act to amend Sections 13352, 23166, and 23191 of the Vehicle Code, relating to driving offenses.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke, or record the court-administered suspension or revocation of, the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. For purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege, or if the court does not grant probation, or if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1. However, where (A) the driving privilege is required to be suspended by this paragraph due to the violation having occurred in vehicles requiring a class 1 or class 2 driver's license, and (B) the court grants probation and imposes the condition specified in subdivision (b) of Section 23161, the department shall issue the person a class 3 driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (e) of

Section 13352.5. If the person gives proof of ability to respond in damages as defined in Section 16430, the department shall issue the restricted license upon receipt of an abstract of record from the court pursuant to Section 1803 certifying that the court has granted probation to the person on conditions which include the condition specified in subdivision (b) of Section 23161.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for 18 months. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages as defined in Section 16430 and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The court shall advise the person at the time of sentencing that completion of an 18-month program or a 30-month program is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subject to the current underlying conviction, either of the following:

(i) A licensed 18-month program pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 18 months of a licensed 30-month program, if available in the county of the person's residence or employment, pursuant to Section 11836 of the Health and Safety Code.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in

Section 23235, an ignition interlock device.

(C) The person provides proof of responsibility to respond in damages as defined in Section 16430.

(D) The person has not applied for and received such an order in conjunction with the current underlying conviction or a prior conviction for violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(E) Any individual convicted of a violation of Section 23152 punishable under Section 23170 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430 and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of a 30-month program, if available in the county of the person's residence or employment or, if not available, an 18-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The court shall advise the person at the time of sentencing that completion of the 18-month or 30-month program, as applicable, is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) (i) The person has satisfactorily completed, subject to the current underlying conviction, the 18-month program or the initial 18 months of a licensed 30-month program, as applicable, pursuant to Section 11836 of the Health and Safety Code.

(ii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23235, an ignition interlock device.

(iii) The person provides proof of responsibility to respond in damages as defined in Section 16430.

(iv) The person has not applied for and received such an order in conjunction with the current underlying conviction or a prior conviction for a violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(B) Any individual convicted of a violation of Section 23153

punishable under Section 23190 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430 and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The court shall advise the person at the time of sentencing that completion of an 18-month program or a 30-month program, as applicable, is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subject to the current underlying conviction, the initial 18 months of a licensed 30-month program pursuant to Section 11836 of the Health and Safety Code.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23235, an ignition interlock device.

(C) The person provides proof of responsibility to respond in damages as defined in Section 16430.

(D) The person has not applied for and received such an order in conjunction with the current underlying conviction or a prior conviction for violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(E) Any individual convicted of a violation of Section 23152 punishable under Section 23175 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(8) Upon a conviction or finding of a violation of subdivision (a)

of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

(e) Whenever the driving privilege is restricted, suspended, or revoked pursuant to this section, the department shall not issue a restricted driver's license or reinstate the driving privilege unless the person gives proof of ability to respond in damages as defined in Section 16430 and maintains that proof for three years. If, at any time during that three-year period, a person who is required to maintain that proof fails to maintain that proof, the department shall suspend that person's driving privilege until the proof of ability to respond in damages is again given to the department.

SEC. 2. Section 23166 of the Vehicle Code is amended to read:

23166. If the court grants probation to any person punished under Section 23165, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (3) of subdivision (a) of Section 13352.

(b) All of the following:

(1) Be confined in the county jail for at least 48 hours but not more than one year.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000).

(3) If the person gives proof of ability to respond in damages as defined in Section 16430 to the Department of Motor Vehicles, have the privilege to operate a motor vehicle be restricted by the Department of Motor Vehicles pursuant to Section 13352.5, for one year, to necessary travel to and from that person's place of employment and to and from the applicable treatment program described in paragraph (4), and if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. The Department of Motor Vehicles shall not suspend the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5, unless the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

(4) Either of the following:

(A) Participate, for at least 18 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

(B) Participate, for at least 30 months subsequent to the underlying conviction and in a manner satisfactory to the court, in a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. A person ordered to treatment pursuant to this subparagraph shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion and report the completion to the Department of Motor Vehicles. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subparagraph is a basis for reducing any other probation requirement or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

SEC. 3. Section 23191 of the Vehicle Code is amended to read:

23191. (a) If the court grants probation to any person punished

under Section 23190, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least one year, that the person pay a fine of at least three hundred ninety dollars ($390) but not more than five thousand dollars ($5,000), and that the person make restitution or reparation pursuant to Section 1203.1 of the Penal Code. The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (6) of subdivision (a) of Section 13352.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23190, the court shall impose as a condition of probation that the person complete, subsequent to the underlying conviction and in a manner satisfactory to the court, an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. In lieu of the minimum term of imprisonment in subdivision (a), the court shall impose as a minimum condition of probation under this subdivision that the person be confined in the county jail for at least 30 days but not more than one year. Except as provided in subdivision (b), if the court grants probation under this section, the court shall order the treatment prescribed by this subdivision, whether or not the person has previously completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186. A person ordered to treatment pursuant to this subdivision shall apply to the court or to a board of review, as designated by the court, at the conclusion of the program to obtain the court's order of satisfaction. Only upon the granting of that order of satisfaction by the court may the program issue its certificate of successful completion and report the completion to the Department of Motor Vehicles. A failure to obtain an order of satisfaction at the conclusion of the program is a violation of probation. In order to enable all required persons to participate, each person shall pay the program costs commensurate with the person's ability to pay as determined pursuant to Section 11837.4 of the Health and Safety Code. No condition of probation required pursuant to this subdivision is a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (6) of subdivision (a) of Section 13352.

CHAPTER 210

An act to amend Section 442.8 of the Health and Safety Code, relating to small and rural hospitals.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. The Legislature hereby finds and declares:

(a) That rural hospitals are an integral link in California's health care system serving the needs of rural residents and tourists.

(b) That, based on the current financial performance of rural hospitals throughout the state due to changes in utilization patterns and third-party payment programs, many strategically located rural hospitals may close.

(c) That, due to their financial status, many small and rural hospitals do not have the resources to fund depreciation and, therefore, cannot finance construction or purchase needed capital equipment to service the residents and visitors of their communities, or both.

SEC. 2. Section 442.8 of the Health and Safety Code is amended to read:

442.8. The office shall submit a report to the Legislature and to the department on or before April 1, 1993, which shall include an evaluation of the impact on small and rural hospitals of the program authorized by this part. The report shall also include an evaluation of any pilot projects implemented under this part. The report shall address whether or not those regulations modified or waived by the office should be permanently modified or waived by the department for small and rural hospitals, and what further regulatory changes should be made based on the results of any pilot project approved pursuant to Section 442.4, or any program flexibility granted. When making its report, the office shall consider health care costs, availability, safety, and quality of care.

The office shall, in the report, determine the capital needs for rural health care in California and identify sources of capital to meet these needs. When determining the capital needs, the office shall consider the use of alternative rural hospital models.

CHAPTER 211

An act to amend Section 19013 of the Welfare and Institutions Code, relating to rehabilitation services.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 19013 of the Welfare and Institutions Code is amended to read:

19013. (a) (1) The department may cooperate with other departments, agencies, and institutions, both public and private, in providing the services authorized by this division to impaired individuals, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this division, such programs, facilities, and services as may be necessary or desirable.

(2) Cooperation may include contracts and cost-sharing agreements, to the extent permitted by the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and the implementing federal regulations.

(b) The department may cooperate with the State Department of Education and with the state public postsecondary education system to provide instruction, individual counseling and guidance, and related rehabilitation services for eligible students with disabilities.

(c) The department may cooperate with school districts, with public secondary schools, and with the state public postsecondary education system to employ personnel to assist in the vocational adjustment of students with disabilities.

CHAPTER 212

An act to amend Sections 1263 and 1332 of the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 1263 of the Unemployment Insurance Code is amended to read:

1263. (a) Any individual convicted under Section 2101 by any court of competent jurisdiction of willfully making a false statement or knowingly failing to disclose a material fact to obtain or increase any benefit or payment under this division shall forfeit any rights to

benefits for the week in which the criminal complaint was filed and for the 51 consecutive calendar weeks which immediately follow that week, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual 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 criminal complaint, but a forfeiture of benefits under this subdivision shall extend no later than the effective date of any order under Section 1203.4 of the Penal Code, and, if the period of forfeiture has not previously expired, the forfeiture of benefits under this subdivision shall terminate as of the effective date of any such order.

(b) Any individual convicted under Section 2101 by any court of competent jurisdiction of willfully making a false statement or knowingly failing to disclose a material fact to obtain or increase any benefit or payment under this part, Part 3 (commencing with Section 3501), or Part 4 (commencing with Section 4001) shall, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual 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 criminal complaint, be ineligible to receive unemployment compensation or extended duration benefits or federal-state extended benefits for the week in which the criminal complaint was filed, or any subsequent week, for which he or she is first otherwise in all respects eligible for unemployment compensation or extended duration benefits or federal-state extended benefits and for 14 subsequent weeks for which he or she is otherwise in all respects eligible for unemployment compensation or extended duration benefits or federal-state extended benefits. No disqualification under this subdivision shall be applied to any week if all or any portion of the week is beyond the three-year period next succeeding the date of the filing of the criminal complaint.

(c) The department shall, effective upon the date of the filing of a criminal complaint against an individual prosecuted under Section 2101, suspend the payment of benefits to the individual.

(d) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section irrespective of whether an order granting probation or other order is made suspending the imposition of the sentence or whether sentence is imposed but execution thereof is suspended.

(e) Notwithstanding the provisions of this section, an individual may during a period of forfeiture under subdivision (a) of this section meet the conditions to remove any disqualification that is imposed under Sections 1260 or 1261, or subdivision (b) of this section, but no week during the period of forfeiture shall be used to offset the amount of any overpayment.

SEC. 2. Section 1332 of the Unemployment Insurance Code is amended to read:

1332. (a) The department shall promptly serve notice of any

determination of eligibility for benefits under this part or Part 3 or Part 4 of this division on the claimant and on any employer or employing unit which prior to this determination has furnished the department with information regarding the claimant's eligibility pursuant to Sections 1327 and 1331. Service shall be made personally or by mail. Failure to serve this notice shall not affect the determination of eligibility.

(1) "Notice" is that notification which apprises the party of a determination of eligibility and allows that party to respond accordingly.

(2) If the department is or should be aware that the notice was not received by the party to whom it was addressed, including, but not limited to, the return to the department of the notice by the United States Post Office, the department shall reissue the notice at such time as the department can determine a corrected mailing address for the affected party or otherwise ensure receipt. The affected party shall have appeal rights pursuant to subdivisions (b) and (c), and pursuant to Section 1328.

(b) The department may for good cause reconsider any determination within 15 days after an appeal to an administrative law judge is filed. If no appeal is filed, the department may for good cause reconsider any determination within 20 days after mailing or personal service of the notice of determination. The department may, if a claimant has not filed an appeal to an administrative law judge from any determination which finds that a claimant is ineligible or disqualified, or if an appeal has been filed but is either withdrawn or dismissed, for good cause also reconsider the determination during the benefit year or extended duration period or extended benefit period to which the determination relates. The department shall give notice of any reconsidered determination to the claimant and any employer or employing unit which received notice under Sections 1328 and 1331 and the claimant or employer may appeal therefrom in the manner prescribed in Section 1328.

The director shall designate individuals to review and reconsider appealed determinations. No individual designated shall be the same individual who made the initial determination in the same matter.

(c) The department may for good cause reconsider any computation or recomputation provided for in this article during the benefit year or extended duration period to which the notice of computation or recomputation relates, except that no recomputation may be considered with respect to any issue considered or under consideration in an appeal taken from a denial of recomputation. The department shall promptly notify the claimant and each of the claimant's base period employers of the recomputation. The claimant and any base period employer may protest the accuracy of the recomputation as prescribed in Section 1330.

CHAPTER 213

An act to amend Section 68101 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 68101 of the Food and Agricultural Code is amended to read:

68101. (a) The commission shall, not later than October 1 of each year, establish the assessment for the marketing year beginning October 1 and ending September 30.

(b) The combined assessment of the commission and any other state authorized kiwifruit production research and market program shall not exceed 5 percent of the average F.O.B. (Free on Board) gross dollar value of the kiwifruit marketed by or on behalf of producers during the previous three marketing years, or twenty-five cents ($0.25) per seven-pound tray of kiwifruit or the equivalent thereto, whichever is less. The assessment may be computed and assessed on a per tray basis if the commission determines that an assessment on that basis would be reasonably equivalent to the assessment established by the commission pursuant to subdivision (a).

(c) Expenditures for administrative purposes, as defined by the commission, within the maximum assessment shall not exceed 1½ percent of the gross dollar value of kiwifruit marketed by or on behalf of producers during that marketing year.

CHAPTER 214

An act to amend Section 10108 of the Public Contract Code, relating to contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 10108 of the Public Contract Code is amended to read:

10108. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not

exceed two hundred fifty thousand dollars ($250,000), except that the two hundred fifty thousand dollars ($250,000) limitation shall not apply to a project of a district agricultural association or a project of the State Lands Commission.

If the estimated total cost of any construction project or work carried out under this section exceeds twenty-five thousand dollars ($25,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids; provided, however, that the director may authorize the district or agency to carry out work in excess of twenty-five thousand dollars ($25,000) under the provisions of this section by day labor if he deems that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state; however, in no event shall the amount of work performed by day labor under this section exceed the sum of fifty thousand dollars ($50,000) in the case of district agricultural association fair projects, or thirty-five thousand dollars ($35,000) in other cases.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for effective administration of state minor capital outlay programs and public works contracts at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 215

An act to add Section 3004 to the Penal Code, relating to parole.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 3004 is added to the Penal Code, to read:

3004. Notwithstanding any other law, the Department of Corrections and the Board of Prison Terms may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with all other conditions of parole. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the parolee and the agent supervising the parolee which is to be used solely for the purposes of voice identification.

CHAPTER 216

An act to amend Section 51283 of the Government Code, relating to mapping.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 51283 of the Government Code, as amended by Section 1.5 of Chapter 1308 of the Statutes of 1987, is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee which the landowner shall pay the county treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation,

waiver, or extension of time.

(d) The first nine hundred eighty-five thousand dollars ($985,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1992–93 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of both of the following:

(1) The total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(e) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and be deposited in the General Fund, except as provided in subdivisions (d) and (f). The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) An additional two hundred forty thousand dollars ($240,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1992–93 fiscal year shall be deposited in the Soil Conservation Fund and shall be available to contribute toward the completion of the modern soil survey program identified in Section 612.5 of the Public Resources Code.

(g) This section shall remain operative only until July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which is enacted before July 1, 1993, deletes or extends that date.

SEC. 2. Section 51283 of the Government Code, as added by Section 2.5 of Chapter 1308 of the Statutes of 1987, is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee which the landowner shall pay the county treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a

portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) The first nine hundred eighty-five thousand dollars ($985,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1992–93 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of both of the following:

(1) The total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(e) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d). The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) This section shall become operative on July 1, 1993.

CHAPTER 217

An act to amend Sections 9250, 14900, 14901, 15250.5, and 15255 of, and to add Sections 9250.1, 14900.1, 14901.1, 15250.6, and 15255.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 9250 of the Vehicle Code is amended to read:

9250. (a) A registration fee of twenty-two dollars ($22) shall be paid to the department for the registration of every vehicle or trailer coach of a type subject to registration under this code, except as are expressly exempted under this code from the payment of registration fees.

The registration fee imposed by this section shall apply to all vehicles described in Section 5004, whether or not special identification plates are issued to such vehicle.

(b) Trailer coaches shall be subject to the fee provided in subdivision (a) for each unit of the trailer coach.

(c) This section applies to (1) the initial or original registration, on or before December 31, 1991, of any vehicle not previously registered in this state and (2) the renewal of registration of any vehicle for which the registration expired on or before December 31, 1991. If the fee required by this section was not paid by December 31, 1991, Section 9250.1 applies.

SEC. 2. Section 9250.1 is added to the Vehicle Code, to read:

9250.1. (a) A registration fee of twenty-seven dollars ($27) shall be paid to the department for the registration of every vehicle or trailer coach of a type subject to registration under this code, except as are expressly exempted under this code from the payment of registration fees.

The registration fee imposed by this section shall apply to all vehicles described in Section 5004, whether or not special identification plates are issued to such vehicle.

(b) Trailer coaches shall be subject to the fee provided in subdivision (a) for each unit of the trailer coach.

(c) The fees imposed by this section apply in lieu of the fees specified in Section 9250 to (1) the initial or original registration, on or after January 1, 1992, of any vehicle not previously registered in this state, (2) the renewal of registration of any vehicle for which the registration period expires on or after January 1, 1992, regardless of whether a renewal application was mailed to the registered owner prior to January 1, 1992, and (3) any renewal of a registration which expired on or before December 31, 1991, but for which the fees are not paid until on or after January 1, 1992.

SEC. 3. Section 14900 of the Vehicle Code is amended to read:

14900. (a) 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.

(b) This section applies to (1) an application for an original driver's license on or before December 31, 1991, and (2) the renewal of a driver's license which expired on or before December 31, 1991. If the fee specified by this section was not paid by December 31, 1991, Section 14900.1 applies.

SEC. 4. Section 14900.1 is added to the Vehicle Code, to read:

14900.1. Except as provided in Sections 15250.5 and 15255, upon application for an original driver's license, or for the renewal of a driver's license or for a license to operate a different class of vehicle, there shall be paid to the department a fee of twelve dollars ($12). 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. 5. Section 14901 of the Vehicle Code is amended to read:

14901. (a) Upon an application for a duplicate driver's license or for a change of name on a driver's license, there shall be paid the department a fee of ten dollars ($10).

(b) This section applies to an application for a duplicate driver's license on or before December 31, 1991. If the fee specified by this section was not paid by December 31, 1991, Section 14901.1 applies.

SEC. 6. Section 14901.1 is added to the Vehicle Code, to read:

14901.1. (a) Upon an application for a duplicate driver's license or for a change of name on a driver's license, there shall be paid to the department a fee of twelve dollars ($12).

(b) The fee imposed by this section applies in lieu of the fee specified in Section 14901 to (1) an application for a duplicate driver's license on or after January 1, 1992, and (2) an application made on or before December 31, 1991, for which the fee is not paid until on or after January 1, 1992.

SEC. 7. Section 15250.5 of the Vehicle Code is amended to read:

15250.5. (a) No person shall operate firefighting equipment unless that person has in his or her immediate possession a valid driver's license for the appropriate class of vehicle operated, or a license issued pursuant to subdivision (b).

(b) The department may issue a restricted driver's license for the appropriate class of vehicle to a firefighter for the operation of firefighting equipment. The restricted license shall be valid only for operating (1) firefighting equipment within this state, or in another state during a response under a mutual aid pact, or (2) any vehicle for which a class 3 driver's license is required.

(c) The restricted firefighter's license may be issued only to an applicant qualified by examination prescribed and conducted by the department.

The pretrip inspection and driving test required to receive the license shall be the same as required to obtain a license under Section 15250.

The written examination shall be developed by the department with the cooperation of the State Fire Marshal. The department shall include a sufficient number of questions from the examinations required to obtain a license under Section 15250 to ensure that passing the special examination under this section assures a level of safety comparable to examinations given under Section 15250.

(d) In lieu of a report of medical examination required by Sections 12804 and 12804.9, an applicant for a restricted license issued pursuant to subdivision (b) shall, upon application and every two years thereafter, submit medical information on a form approved by the department.

(e) Upon application for issuance of an original driver's license pursuant to subdivision (b), there shall be paid to the department a fee of twenty-five dollars ($25).

(f) A "firefighter" is any person employed as such by a federal or state agency or by a regularly organized fire department of a city, county, city and county, or district, or registered as a volunteer member of a regularly organized fire department having official recognition of the city, county, city and county, or district in which the department is located.

(g) "Firefighting equipment" means a motor vehicle used to travel to and to suppress fires, or to transport equipment used to suppress fires, and which is owned by, or under the exclusive control of, a federal or state agency, a regularly organized fire department of a city, county, city and county, or district, or a volunteer fire department having official recognition of the city, county, city and county, or district in which the department is located.

(h) For purposes of the penalties and sanctions prescribed by Article 7 (commencing with Section 15300), the operation of firefighting equipment under a license issued pursuant to subdivision (b) is deemed to be the operation of a commercial motor vehicle.

(i) This section applies to an application for an original driver's license issued pursuant to subdivision (b) on or before December 31, 1991. If the fee specified by this section was not paid by December 31, 1991, Section 15250.6 applies.

SEC. 8. Section 15250.6 is added to the Vehicle Code, to read:

15250.6. (a) No person shall operate firefighting equipment unless that person has in his or her immediate possession a valid driver's license for the appropriate class of vehicle operated, or a license issued pursuant to subdivision (b).

(b) The department may issue a restricted driver's license for the appropriate class of vehicle to a firefighter for the operation of firefighting equipment. The restricted license shall be valid only for

operating (1) firefighting equipment within this state, or in another state during a response under a mutual aid pact, or (2) any vehicle for which a class 3 driver's license is required.

(c) The restricted firefighter's license may be issued only to an applicant qualified by examination prescribed and conducted by the department.

The pretrip inspection and driving test required to receive the license shall be the same as required to obtain a license under Section 15250.

The written examination shall be developed by the department with the cooperation of the State Fire Marshal. The department shall include a sufficient number of questions from the examinations required to obtain a license under Section 15250 to ensure that passing the special examination under this section assures a level of safety comparable to examinations given under Section 15250.

(d) In lieu of a report of medical examination required by Sections 12804 and 12804.9, an applicant for a restricted license issued pursuant to subdivision (b) shall, upon application and every two years thereafter, submit medical information on a form approved by the department.

(e) Upon application for issuance of an original driver's license pursuant to subdivision (b), or for a duplicate driver's license or renewal of a driver's license issued pursuant to subdivision (b), there shall be paid to the department a fee of twenty-seven dollars ($27).

(f) A "firefighter" is any person employed as a firefighter by a federal or state agency or by a regularly organized fire department of a city, county, city and county, or district, or registered as a volunteer member of a regularly organized fire department having official recognition of the city, county, city and county, or district in which the department is located.

(g) "Firefighting equipment" means a motor vehicle used to travel to and to suppress fires, or to transport equipment used to suppress fires, and which is owned by, or under the exclusive control of, a federal or state agency, a regularly organized fire department of a city, county, city and county, or district, or a volunteer fire department having official recognition of the city, county, city and county, or district in which the department is located.

(h) For purposes of the penalties and sanctions prescribed by Article 7 (commencing with Section 15300), the operation of firefighting equipment under a license issued pursuant to subdivision (b) is deemed to be the operation of a commercial motor vehicle.

(i) The fees imposed by this section apply in lieu of the fee specified in Section 15250.5 to (1) an application for an original or duplicate driver's license on or after January 1, 1992, (2) an application for renewal of a driver's license which expires on or after January 1, 1992, and (3) an application for an original or duplicate driver's license or for renewal of a driver's license on or before December 31, 1991, for which the fee is not paid until on or after January 1, 1992.

SEC. 9. Section 15255 of the Vehicle Code is amended to read:

15255. (a) Except as otherwise specified in subdivisions (b) and (c), upon an application for an original commercial driver's license, there shall be paid to the department a fee of fifty-five dollars ($55). A fee of fifty-five dollars ($55) shall also be paid to the department upon an application to change a license classification or to remove a restriction if the change or removal requires a driving-skill test.

(b) Upon application for issuance of an original commercial driver's license by a currently licensed class 1 or class 2 driver who meets the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, there shall be paid to the department a fee of twenty-five dollars ($25).

(c) Upon application for an original class C commercial driver's license which requires an endorsement as provided in Section 15278, there shall be paid to the department a fee of twenty-five dollars ($25).

(d) Following failure in taking a driving-skill test, there shall be paid to the department a fee of thirty dollars ($30) for each subsequent administration of the driving-skill test required by the application.

(e) This section applies to (1) an application for an original driver's license on or before December 31, 1991. If the fees specified in this section were not paid by December 31, 1991, Section 15255.1 applies.

SEC. 10. Section 15255.1 is added to the Vehicle Code, to read:

15255.1. (a) Except as otherwise specified in subdivisions (b) and (c), upon an application for an original commercial driver's license, there shall be paid to the department a fee of fifty-seven dollars ($57). A fee of fifty-seven dollars ($57) shall also be paid to the department upon an application to change a license classification or to remove a restriction if the change or removal requires a driving-skill test.

(b) Upon application for an original commercial driver's license by a currently licensed class 1 or class 2, or class A or class B, driver who meets the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, there shall be paid to the department a fee of twenty-seven dollars ($27).

(c) Upon application for renewal of or a duplicate commercial driver's license by a currently licensed class 1 or class 2, or class A or class B, driver who meets the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, there shall be paid to the department a fee of twenty-seven dollars ($27).

(d) Upon application for an original class C commercial driver's license which requires an endorsement as provided in Section 15278, there shall be paid to the department a fee of twenty-seven dollars ($27).

(e) Upon application for a renewal of or a duplicate class C commercial driver's license which requires an endorsement as provided in Section 15278, there shall be paid to the department a fee of twenty-seven dollars ($27).

(f) Following failure in taking a driving-skill test, there shall be paid to the department a fee of thirty dollars ($30) for each subsequent administration of the driving-skill test required by the application.

(g) The fees imposed by this section apply in lieu of the fees specified in Section 15255 to (1) an application for an original commercial driver's license on or after January 1, 1992, (2) an application for an original or duplicate commercial driver's license on or after January 1, 1992, by a currently licensed class 1 or class 2, or class A or class B, driver who meets the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, (3) an application for renewal of a commercial driver's license which expires on or after January 1, 1992, by a currently licensed class 1 or class 2, or class A or class B, driver who meets the driver record requirements and all other requirements established by Section 383.77 of Title 49 of the Code of Federal Regulations, (4) an application for an original or duplicate class C commercial driver's license which requires an endorsement as provided in Section 15278, (5) an application for renewal of a class C commercial driver's license which requires an endorsement as provided in Section 15278 which expires on or after January 1, 1992, and (6) an application for an original or duplicate of, or renewal of, any of those driver's licenses on or before December 31, 1991, for which the fee is not paid until on or after January 1, 1992.

CHAPTER 218

An act to amend Section 37001 of the Health and Safety Code, relating to housing.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 37001 of the Health and Safety Code is amended to read:

37001. The term "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations, which meets any one of the following criteria:

(a) (1) The development is privately owned housing, receiving

no ad valorem property tax exemption not fully reimbursed to all taxing entities; and (2) not more than 49 percent of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.

(c) The development is intended for owner-occupancy, which may include a limited equity housing cooperative as defined in Section 50076.5, or cooperative or condominium ownership, rather than for rental-occupancy.

(d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

(e) The development consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.

(f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project.

(g) The development consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a rental housing development which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

SEC. 2. Section 37001 of the Health and Safety Code is amended to read:

37001. The term "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations, which meets any one of the following criteria:

(a) (1) The development is privately owned housing, receiving no ad valorem property tax exemption not fully reimbursed to all taxing entities; and (2) not more than 49 percent of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.

(c) The development is intended for owner-occupancy, which may include a limited equity housing cooperative as defined in Section 50076.5, or cooperative or condominium ownership, rather than for rental-occupancy.

(d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

(e) The development consists of existing dwelling units leased by

the state public body from the private owner of these dwelling units.

(f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households, as defined in Section 50079.5.

(g) The development consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a rental housing development which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

SEC. 3. Section 2 of this bill incorporates amendments to Section 37001 of the Health and Safety Code proposed by both this bill and AB 1928. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 37001 of the Health and Safety Code, and (3) this bill is enacted after AB 1928, in which case Section 1 of this bill shall not become operative.

CHAPTER 219

An act to add Section 22354.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 22354.5 is added to the Vehicle Code, to read:

22354.5. (a) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic survey, to increase or decrease the existing speed limit on a particular portion of a state highway pursuant to Section 22354, it shall, prior to increasing or decreasing that speed limit, consult with, and take into consideration the recommendations of, the Department of the California Highway Patrol.

(b) The city council or board of supervisors of a city or county through which any portion of a state highway subject to subdivision (a) extends may conduct a public hearing on the proposed increase or decrease at a convenient location as near as possible to that portion of state highway. The Department of Transportation shall take into consideration the results of the public hearing in determining

whether to increase or decrease the speed limit.

CHAPTER 220

An act to amend Section 19823 of the Government Code, relating to state employees.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 19823 of the Government Code is amended to read:

19823. The department may make awards to current or retired state employees who:

(a) Propose procedures or ideas which hereafter have been adopted and which will result in eliminating or reducing state expenditures or improving operations; provided, the proposals are placed in effect; or

(b) Perform special acts or special services in the public interest; or

(c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in the operations of the state government.

Awards for superior accomplishments shall be made in accordance with procedures and standards established by the department.

Any award made by the department under the provisions of this section may be paid from the appropriation available to the state agency affected by the award.

The director may adopt rules and regulations to carry out the provisions of this section, and may appoint merit award boards made up of state officers, employees, or citizens to consider employee proposals, special acts, special services, or superior accomplishments, and to make recommendations to the department as to the merits of the proposals, special acts, special services, or superior accomplishments, and whether or not the proposals, special acts, special services, or superior accomplishments justify an award.

Any award granted under the provisions of this section shall be limited to five thousand dollars ($5,000) unless a larger award is approved by concurrent resolution of the Legislature.

Any expenditures made or costs incurred heretofore or hereafter by the director for the purposes of this section may be paid from funds available for the support of the department.

CHAPTER 221

An act to amend Sections 46300 and 48011 of the Education Code, relating to kindergartens.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 46300 of the Education Code is amended to read:

46300. (a) In computing average daily attendance of a school district or county office of education, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district or county office who possessed a valid certification document, registered as required by law.

(b) For the purposes of a work experience education program in a secondary school that meets the standards of the California State Plan for Vocational Education, the term "immediate supervision," in the context of off-campus work training stations, means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in a work experience program shall not exceed 125 pupils per full-time equivalent certificated teacher coordinator. Notwithstanding Section 52033, this ratio may be waived by the State Board of Education pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 under criteria developed by the State Board of Education.

A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time pupil enrolled in regular classes that meet the requirements of Section 46141 or 46144.

(c) For purposes of the rehabilitative schools, classes, or programs described in Section 48917 that require immediate supervision, the term "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.

(d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also enrolled in a regional occupational center or

regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities that are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education, however, none of that attendance shall be counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance pursuant to this subdivision is 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor is 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative vocational education programs and community classrooms described in Section 52372.1, the term "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences, as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

(g) In computing the average daily attendance of a school district, there shall be included the attendance of pupils in kindergarten after they have completed one school year in kindergarten only if the school district has on file for each of those pupils an agreement made pursuant to Section 48011, approved in form and content by the State Department of Education and signed by the pupil's parent or guardian, that the pupil may continue in kindergarten for not more than an additional school year.

SEC. 2. Section 48011 of the Education Code is amended to read:

48011. A child who, consistent with Section 48000, has been admitted to the kindergarten maintained by a private or a public school in California or any other state, and who has completed one school year therein, shall be admitted to the first grade of an elementary school unless the parent or guardian of the child and the school district agree that the child may continue in kindergarten for not more than an additional school year.

A child who has been lawfully admitted to a public school kindergarten or a private school kindergarten in California and who is judged by the administration of the school district, in accordance

with rules and regulations adopted by the State Board of Education, to be ready for first-grade work may be admitted to the first grade at the discretion of the school administration of the district and with the consent of the child's parent or guardian if the child is at least five years of age. When a child has been legally enrolled in a public school of another district within or out of the state, he or she may be admitted to school and placed in the grade of enrollment in the district of former attendance, at the discretion of the school administration of the district entered.

CHAPTER 222

An act to amend Sections 120051.6 and 120265 of, and to add Section 120268 to, the Public Utilities Code, relating to transit.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 120051.6 of the Public Utilities Code is amended to read:

120051.6. The alternate members of the board shall be appointed as follows:

(a) The County of San Diego Board of Supervisors shall appoint any other county supervisor who qualifies for appointment pursuant to Section 120051 to serve as an alternate member of the transit development board.

(b) The City Council of the City of San Diego shall appoint a member of the city council not already appointed pursuant to subdivision (b) of Section 120050.2 to serve as an alternate member of the transit development board for each of the members appointed by the city council to the transit development board.

(c) The city councils specified in subdivision (c) of Section 120050.2 shall each individually appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(d) If the board elects a person other than a member of the board to serve as chairperson, the board may, upon a two-thirds vote, a quorum being present, appoint a San Diego County resident as an alternate member of the board for that person elected chairperson.

SEC. 2. Section 120265 of the Public Utilities Code is amended to read:

120265. (a) The board shall provide a system of regional transit operating services and support activities including, but not limited to, facilities, fare media, information, maintenance, marketing, security, and signing for its area of jurisdiction, to be funded from the regional transit fund which the board shall create. The board may

provide the regional services directly, by contract with the San Diego Transit Corporation, or by contract with any other provider of services as it deems appropriate, and upon terms and conditions that the board finds in its best interests. The board shall complete an economic feasibility study of competitive bidding for regional transit service within 180 days from the date of acquisition of the San Diego Transit Corporation and shall update the study at any time the board deems appropriate to consider changed circumstances. The board shall adopt a policy for contract services to permit prices and other factors to be compared and evaluated prior to negotiating any contract for regional service.

(b) The board shall determine the routes, fares, frequency of service, and hours of operation of regional services. The board shall create a regional transit service advisory committee consisting of a representative from each of the jurisdictions that contributes to the regional transit funds from its apportionment as determined pursuant to Section 99231.

Periodic revisions to the regional route system may be made by the board upon review by the regional transit service advisory committee which shall meet on an as-needed basis, but not less than once a year to review the annual budget and assessment for regional transit services.

(c) The formula specified in subdivision (d) for funding regional services shall remain in effect for a minimum of three fiscal years and thereafter may be amended by agreement of all affected jurisdictions and the board. The regional transit service advisory committee shall review the assessment formula and recommend appropriate changes to the board and the jurisdictions.

(d) On an annual basis, at the time that the annual apportionment schedule is developed by the transportation planning agency, each jurisdiction shall be assessed a percentage of its apportionment equal to the percentage of its 1983–84 fiscal year apportionment claimed for support of regional services or 5 percent of its annual apportionment, whichever is greater. The assessment for the County of San Diego shall be applied only to that portion of the county apportionment attributable to the board's area of jurisdiction as defined in Section 120054. Any funds remaining after the annual assessment for regional services shall be made available to the jurisdictions for support of transit purposes.

(e) The board may enter into agreements with any local jurisdiction to provide local transit services by the means and upon terms and conditions as may be mutually agreed upon.

(f) The board shall, upon request of the City of Coronado, Poway, or Santee, or the County of San Diego, establish reserves consisting of that part of the board's allocation pursuant to paragraph (1) of subdivision (b) of Section 99233.5, which otherwise would have been allocated to each requesting city or county for the first two fiscal years after the board's acquisition of the San Diego Transit Corporation. The reserves shall be used by the board for transit

purposes within the requesting city or county.

(g) The acquisition of the San Diego Transit Corporation by the board shall not create or impose any financial liability upon the County of San Diego or the cities within the board's area of jurisdiction for any obligations and liabilities of the corporation by virtue of their membership on the board.

SEC. 3. Section 120268 is added to the Public Utilities Code, to read:

120268. The board may enter into cooperative agreements with cities within its area of jurisdiction and with the County of San Diego to establish uniform policies and regulations governing the use of bus passenger loading zones and establishing responsibility and standards for the maintenance of bus loading zones and any associated improvements.

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 223

An act to amend Sections 56000, 56026, 56050, 56302, 62000, 62001, and 62002 of, and to amend and renumber Section 62000.45 of, the Education Code, and to amend Section 7579.5 of the Government Code, relating to special education.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 56000 of the Education Code is amended to read:

56000. The Legislature finds and declares that all individuals with exceptional needs have a right to participate in free appropriate public education and that special educational instruction and services for these persons are needed in order to ensure them of the right to an appropriate educational opportunity to meet their unique needs.

It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to assure that all individuals with exceptional needs are provided their rights to appropriate programs and services which

are designed to meet their unique needs under Public Law 94-142.

It is the further intent of the Legislature that nothing in this part shall be construed to abrogate any right provided individuals with exceptional needs and their parents or guardians under Public Law 94-142. It is also the intent of the Legislature that nothing in this part shall be construed to set a higher standard of educating individuals with exceptional needs than that established by Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following).

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs that is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with provisions of this part by all school districts and county offices during a two-year transitional period commencing with fiscal year 1980–81, with full implementation to be completed by June 30, 1982.

SEC. 2. Section 56026 of the Education Code, as amended by Chapter 35 of the Statutes of 1988, is amended to read:

56026. "Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as a handicapped child as that term was defined in subsection (1) of Section 1401 of Title 20 of the United States Code as it read July 1, 1980.

(b) Their impairment, as described by subdivision (a), requires instruction, services, or both which cannot be provided with modification of the regular school program.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(2) Between the ages of three to five years, inclusive, and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education; or between the ages of three and five years, inclusive, and identified by the district, special education local plan area, or county office pursuant to Section 56441.11.

(3) Between the ages of five and 18 years, inclusive.

(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency

standards prescribed pursuant to Sections 51215 and 51216.

(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the then-current fiscal year, including an extended school year program for individuals with exceptional needs established pursuant to regulations of the State Board of Education.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year if he or she becomes 22 years of age in September of that new fiscal year. However, if a person who is in a year-round school program and is completing the requirements for obtaining a diploma in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the month of October, November, or December while participating in a program under this part shall be terminated from the program on December 31 of the then-current fiscal year, or at the end of the current term if the pupil is completing requirements for obtaining a diploma.

(D) No school district, special education local plan area, or county office of education may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless handicapped within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

(f) This section shall remain in effect only until California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, inclusive, pursuant to Section 56448, and as of that date is repealed.

SEC. 3. Section 56026 of the Education Code, as amended by Chapter 311 of the Statutes of 1987, is amended to read:

56026. "Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as a handicapped child as that term was defined in subsection (1) of Section 1401 of Title 20 of the United States Code as it read July 1, 1980.

(b) Their impairment, as described by subdivision (a), requires instruction, services, or both which cannot be provided with

modification of the regular school program.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(2) Between the ages of three years and four years and nine months, inclusive, and identified by the district, the special education local plan area, or the county office as requiring intensive special education and services, as defined by the State Board of Education.

(3) Between the ages of four years and nine months and 18 years, inclusive.

(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216.

(A) Any person who becomes 22 years of age while participating in a program under this part may continue his or her participation in the program for the remainder of the then-current fiscal year, including an extended school year program for individuals with exceptional needs established pursuant to regulations of the State Board of Education.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year if he or she becomes 22 years of age in September of that new fiscal year. However, if a person who is in a year-round school program and is completing the requirements for obtaining a diploma in a term which extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the month of October, November, or December while participating in a program under this part shall be terminated from the program on December 31 of the then-current fiscal year, or at the end of the current term if the pupil is completing requirements for obtaining a diploma.

(D) No school district, special education local plan area, or county office of education may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless handicapped within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical

disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

(f) This section shall become operative on the date that California terminates its participation in special education programs for individuals with exceptional needs between the ages of three and five years, inclusive, pursuant to Section 56448.

SEC. 4. Section 56050 of the Education Code is amended to read:

56050. (a) For the purposes of this article, "surrogate parent" shall be defined as it is defined in the federal regulations adopted pursuant to Public Law 94-142.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The surrogate parent may sign any consent relating to individualized education program purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the Government Code.

SEC. 5. Section 56302 of the Education Code is amended to read:

56302. Each district, special education local plan area, or county office shall provide for the identification and assessment of an individual's exceptional needs, and the planning of an instructional program to meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program.

SEC. 6. Section 62000 of the Education Code is amended to read:

62000. "Sunset" and "sunset date," as used in this part, mean the date on which specific categorical programs cease to be operative and Sections 62002, 62003, 62004, 62005, and 62005.5 govern program funding.

The educational programs referred to in this part shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006.

SEC. 7. Section 62000.45 of the Education Code is amended and renumbered to read:

62000.4. The Instructional Materials Program shall sunset on June 30, 1996.

SEC. 8. Section 62001 of the Education Code is amended to read:

62001. (a) The intent of the Legislature in enacting this section is to assure a thorough review of programs listed in this part and the funding sources thereof, so that they most effectively, efficiently, and economically meet the needs of pupils and improve schools. It is not the intent of the Legislature in enacting this section to remove resources from pupils with special needs or to cease efforts to improve the schools.

(b) It was the intent of the Legislature in enacting this part to ensure that each categorical program is thoroughly reviewed. It was also intended that programs would be reviewed the year prior to the sunset date so that school districts and county offices of education would not be subject to unnecessary confusion and disruption in planning and administering those programs.

(c) It is further the intent of the Legislature that the legislative review of programs specified in this part shall consider the appropriateness of state administration by agencies other than by the State Department of Education, such as the Commission on Teacher Credentialing and the Board of Governors of the California Community Colleges.

SEC. 9. Section 62002 of the Education Code is amended to read:

62002. If the Legislature does not enact legislation to continue a program listed in this part, the funding of that program shall continue for the general purposes of that program as specified in the provisions relating to the establishment and operation of the program. The funds shall be disbursed according to the identification criteria and allocation formulas for the program in effect on the date the program shall cease to be operative pursuant to this part both with regard to state-to-district and district-to-school disbursements. The funds shall be used for the intended purposes of the program, but all relevant statutes and regulations adopted thereto regarding the use of the funds shall not be operative, except as specified in Section 62002.5.

SEC. 10. Section 7579.5 of the Government Code is amended to read:

7579.5. (a) A surrogate parent shall not be appointed for a child who is a dependent or ward of the court unless the court specifically limits the right of the parent or guardian to make educational decisions for the child. A surrogate parent shall not be appointed for a child who has reached the age of majority unless the child has been declared incompetent by a court of law.

(b) A local educational agency shall appoint a surrogate parent for a child under one or more of the following circumstances:

(1) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions

Code upon referral of the child to a local educational agency for special education and related services, or in cases where the child already has a valid individualized education program.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(c) For the purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The surrogate parent may sign any consent relating to individualized education program purposes.

(d) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(e) Individuals who would have a conflict of interest in representing the child, as specified under federal regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in Section 56026 of the Education Code.

(f) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of a public agency involved in the education or care of the child. The surrogate parent shall not be an employee of a public or private agency that is involved in the education or care of the child. If a conflict of interest arises subsequent to the appointment of the surrogate parent, the local educational agency shall terminate the appointment and appoint another surrogate parent.

(g) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

(h) Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(i) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-890 of the Budget Act.

CHAPTER 224

An act to amend Section 1203.073 of the Penal Code, relating to controlled substances.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 1203.073 of the Penal Code is amended to read:

1203.073. (a) A person convicted of a felony specified in subdivision (b) may be granted probation only in an unusual case where the interests of justice would best be served. When probation is granted in such a case, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Except as provided in subdivision (a), probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale, or Section 11352 of the Health and Safety Code by selling, a substance containing 28.5 grams or more of cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or 57 grams or more of a substance containing cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling a substance containing 28.5 grams or more of methamphetamine or 57 grams or more of a substance containing methamphetamine.

(3) Any person who is convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code, except those who manufacture phencyclidine, or who is convicted of an act which is punishable under subdivision (b) of Section 11379.6 of the Health and Safety Code, except those who offer to perform an act which aids in the manufacture of phencyclidine.

(4) Except as otherwise provided in Section 1203.07, any person who is convicted of violating Section 11353 or 11380 of the Health and

Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 of the Health and Safety Code, or methamphetamine.

(5) Any person who is convicted of violating Section 11351.5 of the Health and Safety Code by possessing for sale a substance containing 14.25 grams or more of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code or 57 grams or more of a substance containing at least five grams of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(6) Any person who is convicted of violating Section 11352 of the Health and Safety Code by transporting for sale, importing for sale, or administering, or by offering to transport for sale, import for sale, or administer, or by attempting to import for sale or transport for sale, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(7) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054 of the Health and Safety Code.

(8) Any person convicted of violating Section 11379.6, 11382, or 11383 of the Health and Safety Code with respect to methamphetamine, if he or she has one or more prior convictions for a violation of Section 11378, 11379, 11379.6, 11380, 11382, or 11383 with respect to methamphetamine.

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

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

CHAPTER 225

An act to amend Sections 55601.6 and 55612 of, and to add Section 55613 to, the Food and Agricultural Code, relating to grapes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 55601.6 of the Food and Agricultural Code is amended to read:

55601.6. (a) To provide funds to carry out Section 55601.5, each processor who crushes more than 100 tons of grapes in California shall pay to the director the amount determined by the director to be necessary to cover these costs, but not to exceed five cents ($0.05) per ton of grapes received for crushing, fresh weight equivalent, during each marketing season beginning July 1 and ending the following June 30. However, two and one-half cents ($0.025) per ton of grapes received for crushing, or one-half of the fee if the fee is less than five cents ($0.05), shall be paid by the processor who crushes grapes and two and one-half cents ($0.025) per ton of grapes received for crushing, including any grapes produced by the processor, or one-half of the fee if the fee is less than five cents ($0.05), shall be paid by the processor who crushes grapes and may be deducted from moneys owed to the producer.

(b) The amount of the fee shall be paid to the director on or before January 10 of each year on all grapes received for crushing through December 15. The amount of the fee on any grapes received for crushing after December 15 shall be paid to the director on or before June 30 of that marketing season.

(c) The director may fix the fee at a lesser amount and may adjust the fee from marketing season to marketing season.

(d) Any processor who crushes grapes who fails, neglects, or refuses to pay the required fee shall be in violation of this chapter as provided in subdivision (i) of Section 55601.5. Any processor who crushes grapes shall not be entitled to pass the penalty on to the producer of the grapes.

(e) If the director conducts an objective measurement survey pursuant to Section 55612, the fee charged pursuant to subdivision (a) may be increased by not more than two cents ($0.02) per ton of grapes received for crushing, fresh weight equivalent, to cover the costs of the survey. The same ratio of payment between processor and producer shall be maintained if the fee is increased pursuant to this subdivision.

(f) If the director conducts an acreage survey pursuant to Section 55613, he or she may increase the fee charged pursuant to subdivision

(a) by not more than two cents ($0.02) per ton of grapes received for crushing, fresh weight equivalent, to cover costs of the survey. The same ratio of payment between processor and producer shall be maintained if the fee is increased pursuant to this subdivision.

(g) All moneys received under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 2. Section 55612 of the Food and Agricultural Code is amended to read:

55612. (a) "Objective measurement survey" means counts and measurements of plant characteristics of a particular crop in sample fields in order to provide a basis for a forecast of statewide projected yields of that crop.

(b) If the director determines by March 1, of any year, that an objective measurement survey of the grape crop is desired by the processors and producers of grapes for wine, and if the producers and processors of grapes for raisins agree to pay their proportionate share, as determined by the director, of the cost of the survey, the director shall conduct the survey. The director shall implement subdivision (e) of Section 55601.6 to fund the wine industry's proportionate cost of the survey. If an objective measure survey is conducted, the results of the survey shall be printed and made available on or before August 12, of the year in which it is conducted.

SEC. 3. Section 55613 is added to the Food and Agricultural Code, to read:

55613. (a) If the director determines by February 1 of any year, commencing in 1992, that an acreage survey of the grape crop is desired by the processors and producers of grapes for wine, and if the producers and processors of grapes for raisins and the producers and packers of grapes for fresh market use, agree to pay their proportionate share of the cost of the survey, as determined by the director, the director shall conduct the survey. The director shall implement subdivision (f) of Section 55601.6 to fund the wine industry's proportionate costs of the survey. If an acreage survey is conducted, the results of the survey shall be printed and made available on or before May 30 of the year in which it is conducted.

(b) The department shall reimburse any processor or producer of grapes for wine to cover the costs incurred by any or those persons to fund the wine industry's proportionate share of an acreage survey in 1991, from funds collected pursuant to subdivision (f) of Section 55601.6.

(c) For purposes of this section, "acreage survey" means an accumulation of plant removals, new plantings, and graftings to provide reliable information on the changing character of the state's grape industry. This information shall be tabulated for each county and on a statewide basis and for each variety of grapes.

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 preserve the integrity and viability of the California grape industry by providing adequate funding to the Department of Food and Agriculture to conduct a grape acreage survey as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 226

An act to repeal Section 30176 of the Public Resources Code, relating to coastal development.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 30176 of the Public Resources Code is repealed.

CHAPTER 227

An act to amend Section 14520.6 of the Public Resources Code, relating to beverage containers.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 14520.6 of the Public Resources Code is amended to read:

14520.6. "Noncertified recycler" means a person, entity, or operation which is not certified by the department and which purchases empty beverage containers from consumers, or from dropoff or collection programs.

CHAPTER 228

An act to amend Sections 1789.31 and 1793.02 of the Civil Code, and to amend Section 395 of the Code of Civil Procedure, relating to civil transactions.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 1789.31 of the Civil Code is amended to read:

1789.31. As used in this title, a "check casher" means a person or entity that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check casher" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check casher" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum flat fee not exceeding two dollars ($2) as a service to its customers that is incidental to its main purpose or business.

SEC. 2. Section 1793.02 of the Civil Code is amended to read:

1793.02. (a) All new and used assistive devices sold at retail in this state shall be accompanied by the retail seller's written warranty which shall contain the following language: "This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws." In lieu of the words "30 days" the retail seller may specify any longer period.

(b) The language prescribed in subdivision (a) shall appear on the first page of the warranty in at least 10-point bold type. The warranty shall be delivered to the buyer at the time of the sale of the device.

(c) If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to

the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be canceled all contracts, instruments, and security agreements executed by the buyer in connection with the sale. When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.

(d) With respect to the retail sale of an assistive device to an individual, organization, or agency known by the seller to be purchasing for the ultimate user of the device, this section and subdivision (b) of Section 1792.2 shall be construed to require that the device be specifically fit for the particular needs of the ultimate user.

(e) This section and subdivision (b) of Section 1792.2 shall not apply to any of the following sales of assistive devices:

(1) A catalog or similar sale, as defined in subdivision (q) of Section 1791, except a sale of a hearing aid.

(2) A sale which involves a retail sale price of less than fifteen dollars ($15).

(3) A surgical implant performed by a physician and surgeon, or a restoration or dental prosthesis provided by a dentist.

(f) The rights and remedies of the buyer under this section and subdivision (b) of Section 1792.2 are not subject to waiver under Section 1792.3. The rights and remedies of the buyer under this section and subdivision (b) of Section 1792.2 are cumulative, and shall not be construed to affect the obligations of the retail seller or any other party or to supplant the rights or remedies of the buyer under any other section of this chapter or under any other law or instrument.

(g) Section 1795.5 shall not apply to a sale of used assistive devices, and for the purposes of the Song-Beverly Consumer Warranty Act the buyer of a used assistive device shall have the same rights and remedies as the buyer of a new assistive device.

(h) The language in subdivision (a) shall not constitute an express warranty for purposes of Sections 1793.2 and 1793.3.

SEC. 3. Section 395 of the Code of Civil Procedure is amended to read:

395. (a) Except as otherwise provided by law and subject to the power of the court to transfer actions or proceedings as provided in this title, the county in which the defendants or some of them reside at the commencement of the action is the proper county for the trial of the action. If the action is for injury to person or personal property or for death from wrongful act or negligence, either the county where the injury occurs or the injury causing death occurs or the county in which the defendants, or some of them reside at the commencement of the action, shall be a proper county for the trial of the action. In a proceeding for dissolution of marriage, the county in which the petitioner has been a resident for three months next preceding the commencement of the proceeding is the proper

county for the trial of the proceeding. In a proceeding to determine parental relation under Part 7 (commencing with Section 7000) of Division 4 of the Civil Code or to enforce an obligation of support under Section 196a of the Civil Code, the county in which the child resides is the proper county for the trial of the action. In a proceeding to establish and enforce a foreign judgment or court order for the support of a minor child, the county in which the child resides is the proper county for the trial of the action. Subject to subdivision (b), when a defendant has contracted to perform an obligation in a particular county, either the county where the obligation is to be performed or in which the contract in fact was entered into or the county in which the defendant or any such defendant resides at the commencement of the action shall be a proper county for the trial of an action founded on such obligation, and the county in which the obligation is incurred shall be deemed to be the county in which it is to be performed unless there is a special contract in writing to the contrary. If none of the defendants reside in the state or if residing in the state and the county in which they reside is unknown to the plaintiff, the action may be tried in any county which the plaintiff may designate in his or her complaint, and, if the defendant is about to depart from the state, the action may be tried in any county where either of the parties reside or service is made. If any person is improperly joined as a defendant or has been made a defendant solely for the purpose of having the action tried in the county or judicial district where he or she resides, his or her residence shall not be considered in determining the proper place for the trial of the action.

(b) Subject to the power of the court to transfer actions or proceedings as provided in this title, in an action arising from an offer or provision of goods, services, loans or extensions of credit intended primarily for personal, family or household use, other than an obligation described in Section 1812.10 or Section 2984.4 of the Civil Code, or an action arising from a transaction consummated as a proximate result of an unsolicited telephone call made by a seller engaged in the business of consummating transactions of that kind, the county in which the buyer or lessee in fact signed the contract, the county in which the buyer or lessee resided at the time the contract was entered into, or the county in which the buyer or lessee resides at the commencement of the action is the proper county for the trial thereof.

(c) If within the county there is a municipal or justice court having jurisdiction of the subject matter established, in the cases mentioned in subdivision (a), in the judicial district in which the defendant or any defendant resides, in which the injury to person or personal property or the injury causing death occurs, or, in which the obligation was contracted to be performed or, in cases mentioned in subdivision (b), in the judicial district which the buyer or lessee resides, in which the buyer or lessee in fact signed the contract, in which the buyer or lessee resided at the time the contract was

entered into, or in which the buyer or lessee resides at the commencement of the action, then such court is the proper court for the trial of such action. Otherwise, any municipal or justice court in such county having jurisdiction of the subject matter is a proper court for the trial thereof.

(d) Any provision of an obligation described in subdivision (b) or (c) waiving those subdivisions is void and unenforceable.

CHAPTER 229

An act to amend Sections 830.7 and 3088 of, and to add Section 3089 to, the Penal Code, relating to county parole officers.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they 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.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

SEC. 2. Section 3088 of the Penal Code is amended to read:

3088. A prisoner who is released on parole pursuant to this article shall be supervised by a county parole officer of the county board of parole commissioners.

SEC. 3. Section 3089 is added to the Penal Code, to read:

3089. (a) A county parole officer who is not a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, is a public officer who works at the direction of the County Board of Parole Commissioners, as provided for in Section 3075, and is responsible for supervising prisoners released on parole by the board.

(b) A county parole officer who is a public officer, as defined in subdivision (a), shall have no right to carry or possess firearms in the performance of his or her prescribed duties.

(c) A county parole officer, as defined in subdivision (a), shall comply with the standards for selection and training established by the Board of Corrections pursuant to Section 6035.

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 230

An act to amend Section 16759 of the Business and Professions Code, and to add Section 68096.1 to the Government Code, relating to witnesses.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 16759 of the Business and Professions Code is amended to read:

16759. All those powers granted to the Attorney General as a head of a department under Article 2 (commencing with Section

11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code shall be granted to the district attorney of any county when that district attorney reasonably believes that there may have been a violation of Article 2 (commencing with Section 16720) or Article 3 (commencing with Section 16750) of this chapter, or a violation of Chapter 4 (commencing with Section 17000) of this part, or a violation of Chapter 5 (commencing with Section 17200) of this part, and shall be subject to the provisions of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code. Any investigations pursuant to these powers shall be conducted in accordance with the procedures set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code, including all principles relating to immunity from self-incrimination applicable thereto. However, nothing in Section 16758 shall be construed as providing automatic immunity with respect to the subject of a subpoena issued in connection with that investigation. Court orders sought pursuant to this section shall be sought in the superior court of the county where the district attorney seeking the order holds office.

SEC. 2. Section 68096.1 is added to the Government Code, to read:

68096.1. (a) Any employee of a city, county, or city and county who is obliged by a subpoena to attend a civil action or proceeding as a witness in litigation in a matter regarding an event or transaction which he or she perceived or investigated in the course of his or her duties, to which that city, county, or city and county is not a party, shall receive the salary or other compensation to which he or she is normally entitled from that city, county, or city and county during the time that he or she prepares for his or her response and appearance, 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 that city, county, or city and county the actual necessary and reasonable traveling expenses he or she incurred in complying with the subpoena.

(b) The party at whose request the subpoena is issued shall reimburse the city, county, or city and county for the full cost incurred by the city, county, or city and county in paying the employee his or her salary or other compensation and traveling expenses as provided for in this section, for each day that the employee 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 that city, county, or city and county for each day that the employee 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 tendered, the difference shall be paid to the city, county, or city and county by the party at whose request the subpoena was 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 any order directing the employee to appear on the date to which the proceeding is continued.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. 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 231

An act to amend Section 6555 of the Elections Code, relating to elections.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 6555 of the Elections Code is amended to read:

6555. (a) Notwithstanding any other provision of this article, a candidate may submit a petition containing signatures of registered voters in lieu of a filing fee as follows:

(1) For the office of California State Assembly, 1,500 signatures.

(2) For the office of California State Senate and the United States House of Representatives, 3,000 signatures.

(3) For candidates running for statewide office, 10,000 signatures.

(4) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 10 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.

(5) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is less than 2,000, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 20 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.

(6) Notwithstanding any other provision of this section, a

candidate seeking the nomination of a qualified party with whom he or she is registered, the registered voters of which who were eligible to vote at the last statewide election constituted less than 5 percent of all registered voters eligible to vote at the last statewide election, may submit a petition containing signatures of 10 percent of the registered voters of that party in the district in which he or she seeks nomination, or 150 signatures, whichever is less.

(7) A voter may sign both a candidate's nomination papers and his or her in-lieu-filing-fee petition. However, if signatures appearing on the documents are counted towards both the nomination paper and the in-lieu-filing-fee petition signature requirements, a person may only sign one of the documents.

(b) The Secretary of State or an elections official shall furnish to each candidate, upon request, and without charge therefor, forms for securing signatures. The number of forms which an elections official shall furnish a candidate shall be a quantity which provides the candidates with spaces for signatures sufficient in number to equal the number of signatures which the candidate is required to secure pursuant to subdivision (a) if the candidate desires that number of forms. However, the elections official may, rather than provide the candidate with the number of forms set forth in the preceding sentence, or, upon the request of a candidate, provide the candidate with a master form, which may be duplicated by the candidate at the candidate's expense for the purpose of circulating additional petitions. The Secretary of State shall provide the master form. A county elections official may provide candidates a form other than the master form provided by the Secretary of State. However, that form shall meet all statutory requirements, and the elections official shall also make available and accept the master form provided by the Secretary of State. All forms shall be made available commencing 45 days before the first day for circulating nomination papers. However, in cases of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than 45 days after the creation of the vacancy, the forms shall be made available within five working days after the creation of the vacancy. No other form except the form furnished by the Secretary of State or a county elections official or forms duplicated from a master form shall be used to secure signatures. Each petition section shall bear an affidavit signed by the circulator, in substantially the same form as set forth in Section 6494. The substitution of signatures for fees shall be subject to the following provisions:

(1) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.

(2) If a voter signs more candidates' petitions than there are offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

(3) In-lieu-filing-fee petitions shall be filed at least 15 days prior to

the close of the nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, or a sufficient combination of signatures and pro rata filing fee, the elections official shall issue nomination papers provisionally. Within 10 days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee, to cover the deficiency.

(4) If the petition is circulated for an office in more than one county, the candidate shall submit the signatures to the county elections official in the county in which the petition was circulated. The county elections official shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the Secretary of State shall notify the candidate and the county elections officials of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers. Each circulator of an in-lieu-filing-fee petition shall be a registered voter of the district or political subdivision in which the candidate is to be voted on. The circulator shall serve within the county in which he or she resides.

(5) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

(c) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 607 prior to the first day on which petitions are available.

(d) All valid signatures obtained pursuant to this section shall be counted towards the number of voters required to sign a nomination paper in accordance with Section 6494.1 or 6834.1.

CHAPTER 232

An act to amend Sections 19356 and 26481 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 19356 of the Revenue and Taxation Code is amended to read:

19356. (a) The Tax Relief and Refund Account is hereby created

in the General Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the Tax Relief and Refund Account are hereby continuously appropriated, without regard to fiscal year, to the Franchise Tax Board for purposes of making all payments as provided in this section.

(b) Notwithstanding any other provision of law, all payments required to be made to taxpayers or other persons from the Personal Income Tax Fund shall be paid from the Tax Relief and Refund Account.

(c) The Controller shall transfer, as needed, to the Tax Relief and Refund Account:

(1) From the unexpended balance of the annual Budget Act appropriation for Item 9100-101-001, Schedule 80-Renter's Tax Relief, an amount determined by the Franchise Tax Board to be equivalent to the total amount of renters' assistance credits and refunds allowed under Section 17053.5.

(A) If there is no unexpended balance of the appropriation, as provided for in paragraph (1), the Controller shall transfer sufficient moneys from the Personal Income Tax Fund to make the renters' assistance credits and refunds until there is an unexpended balance.

(B) Subsequent to there being no unexpended balance of the appropriation, as provided for in paragraph (1), and there being a transfer of moneys from the Personal Income Tax Fund to make the renters' assistance credits and refunds, reimbursement shall be made from the unexpended balance of the appropriation as provided for in paragraph (1) to the Personal Income Tax Fund. However, if no such appropriation is subsequently made, reimbursement shall be made from the General Fund.

(2) From the disability fund, the amount transferable to the General Fund pursuant to subdivision (a) of Section 1176.5 of the Unemployment Insurance Code.

(3) From the Personal Income Tax Fund, such additional amounts as determined by the Franchise Tax Board to be necessary to make the payments required under this section.

SEC. 2. Section 26481 of the Revenue and Taxation Code is amended to read:

26481. (a) All moneys received by the State Treasurer from the Franchise Tax Board representing amounts imposed by this part shall be deposited by him or her in a special fund in the State Treasury, to be designated the Bank and Corporation Tax Fund, and moneys in said fund shall, upon the order of the Controller, be transferred into the General Fund of the state, or drawn therefrom for the purpose of refunding to taxpayers hereunder.

(b) Notwithstanding Section 13340 of the Government Code, all moneys in the Bank and Corporation Tax Fund are hereby continuously appropriated, without regard to fiscal year, to the Franchise Tax Board for purposes of making all payments as provided in this section.

SEC. 3. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Controller to send refunds pursuant to this act without delay, it is necessary that this act take effect immediately.

CHAPTER 233

An act to add Section 790.034 to the Insurance Code, relating to insurance.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 790.034 is added to the Insurance Code, to read:

790.034. Regulations adopted by the commissioner pursuant to this article which relate to the settlement of claims shall take into consideration settlement practices by classes of insurers.

CHAPTER 234

An act to amend Section 3209.8 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 3209.8 of the Labor Code is amended to read:

3209.8. Treatment reasonably required to cure or relieve from the effects of an injury shall include the services of marriage, family, and child counselors and clinical social workers licensed by California state law and within the scope of their practice as defined by California state law if the injured person is referred to the marriage, family, and child counselor or the clinical social worker by a licensed physician and surgeon, with the approval of the employer, for treatment of a condition arising out of the injury. Nothing in this section shall be construed to authorize marriage, family, and child counselors or clinical social workers to determine disability for the purposes of Article 3 (commencing with Section 4650) of Chapter 2 of Part 2. The requirement of this section that the employer approve the referral by a licensed physician or surgeon shall not be construed

to preclude reimbursement for self-procured treatment, found by the appeals board to be otherwise compensable pursuant to this division, where the employer has refused to authorize any treatment for the condition arising from the injury treated by the marriage, family, and child counselor or clinical social worker.

CHAPTER 235

An act to add Section 5080.40 to the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 27, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 5080.40 is added to the Public Resources Code, to read:

5080.40. (a) No operating lease or agreement shall be entered into, or amended, pursuant to this article unless one of the following has occurred:

(1) The Legislature has reviewed the lease or agreement, or amendment, as part of the annual budget process or the requirements of paragraph (2) have been met.

(2) Following enactment of the annual Budget Act, the State Public Works Board determines that the proposed lease or agreement or amendment could not have been presented to the Legislature for review during the annual budget process, or that the proposed lease or agreement or amendment was reviewed during the annual budget process but it is necessary to revise the terms of the lease or agreement or amendment in a material respect, and the State Public Works Board determines that it is adverse to the interests of the public to defer that review to the next annual budget process. Upon making its determination, the State Public Works Board may review and approve the proposed lease or agreement or amendment, or any revision thereof, not sooner than 20 days after the board 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 of the intended action. All actions taken by the State Public Works Board pursuant to this paragraph shall be reported to the Legislature in the next Governor's Budget.

(b) The department shall include with the proposed lease or agreement or amendment sufficient documentation to enable the Legislature or the State Public Works Board, as the case may be, to evaluate fully the estimated operating costs and revenues and all terms upon which the lease or agreement or amendment is proposed

to be entered into. Specifically, the documentation shall identify both of the following:

(1) Any anticipated costs to the state for operation or development under the lease or agreement or amendment and the anticipated state share of total operation and development costs.

(2) The anticipated annual revenues, net of operation costs, for the unit and the state's share of these revenues.

(c) Leases or agreements shall be exempt from subdivisions (a) and (b) when all of the following conditions exist:

(1) The lease or agreement involves operation of only a portion of a unit of the state park system.

(2) The term of the lease or agreement is for a period of 20 years or less.

(3) The lease's or agreement's impact to the unit, including concessions revenue, will not exceed two hundred fifty thousand dollars ($250,000) in annual revenue.

(4) The lease or 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 leases or agreements shall be exempt 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.

CHAPTER 236

An act to amend Sections 6275, 6292, 6359.4, 6368, 6368.1, 6376.1, 6487, 6591.5, 6701, 6812, 6907, 6936, 7056, 7096, 7202, 7202.6, 7203, 7261, 7262, 8951, 9022, 11522, 11524, 38501, 38562, 38564, 43102, 45102, and 50108.2 of, and to add Section 6362.3 to, the Revenue and Taxation Code, and to amend Section 20 of, and to repeal Section 18 of, Chapter 85 of the Statutes of 1991, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 6275 of the Revenue and Taxation Code is amended to read:

6275. (a) Every person making any retail sale of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or of a vessel or an aircraft as defined in this article, is a retailer for the purposes of this part of the vehicle, vessel, or aircraft, regardless of whether he or she is a retailer by reason of other provisions of this part, unless another person is the retailer, as provided in subdivision (b).

(b) Every person, licensed or certificated under the Health and Safety Code or the Vehicle Code as a dealer, is the retailer of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code when a retail sale of the vehicle is made through him or her and that person provides to the Department of Housing and Community Development or the Department of Motor Vehicles a notice of transfer with respect to the vehicle pursuant to Section 18080.5 of the Health and Safety Code or Section 5901 or Section 38200 of the Vehicle Code. That person shall hold a seller's permit and remit tax to the board with respect to those sales in the same manner as a dealer licensed or certificated under the Vehicle Code and making sales on his or her own account. For purposes of this subdivision, "sale" does not include a lease.

SEC. 2. Section 6292 of the Revenue and Taxation Code is amended to read:

6292. (a) Except when the sale is by lease, when a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Housing and Community Development acting for and on behalf of the board pursuant to Section 18123 of the Health and Safety Code or to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

(b) If the purchaser makes an application to either department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he

or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the appropriate department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

SEC. 3. Section 6359.4 of the Revenue and Taxation Code is amended to read:

6359.4. (a) Any vending machine operator is a consumer of, and shall not be considered a retailer of, food products, including candy and confectionery, which sell at retail for fifteen cents ($0.15) or less and which are actually sold through a vending machine.

(b) Notwithstanding subdivision (a), any vending machine operator is a consumer of, and shall not be considered a retailer of, food products, including candy and confectionery, other than beverages or hot prepared food products, which are sold through a coin-operated bulk vending machine if the amount of each sale is twenty-five cents ($0.25) or less. For purposes of this subdivision, "bulk vending machine" means a vending machine containing unsorted food products, including candy and confectionery, other than beverages or hot prepared food products which, upon insertion of a coin, dispenses those food products, including candy and confectionery, in approximately equal portions, at random, and without selection by the customer.

SEC. 3.3. Section 6362.3 is added to the Revenue and Taxation Code, to read:

6362.3. There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of newspapers or periodicals, during the term of a prepaid subscription, if the subscription was entered into and paid for prior to July 15, 1991.

SEC. 3.5. Section 6368 of the Revenue and Taxation Code is amended to read:

6368. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The watercraft is for use in interstate or foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who

are regularly engaged in commercial deep sea fishing.

(3) The watercraft is functionally used 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars ($20,000) a year.

(c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in interstate or foreign commerce involving the transportation for hire of property or persons, if the yearly gross receipts of the person using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to him or her, or twenty-five thousand dollars ($25,000), whichever is less.

SEC. 4. Section 6368.1 of the Revenue and Taxation Code is amended to read:

6368.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft which are leased, or are sold to persons for the purpose of leasing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The lessee uses the watercraft in interstate and foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

(3) The lessee functionally uses the watercraft 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars ($20,000) a year.

(c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in the business of transporting for hire property or persons, if the yearly gross receipts of the lessor from the lease of that watercraft to persons using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to the lessor, or twenty-five

thousand dollars ($25,000), whichever is less.

SEC. 5. Section 6376.1 of the Revenue and Taxation Code is amended to read:

6376.1. (a) On and after July 15, 1991, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ¼ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(b) From July 15, 1991, to the date on which the taxes imposed by Sections 6051.2 and 6201.2 cease to be operative pursuant to subdivision (b) of Section 6051.2 or subdivision (b) of Section 6201.2, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a one-half of 1 percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(c) From July 15, 1991, to the date the taxes imposed by Sections 6051.5 and 6201.5 cease to be operative, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a ½ percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any

party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(d) On and after July 15, 1991, there are exempted from the taxes imposed by this part an amount equal to the tax imposed by this part on July 14, 1991, with respect to the sale or purchase of any tangible personal property that was exempt prior to the enactment of the act adding this section, with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

SEC. 5.1. Section 6487 of the Revenue and Taxation Code is amended to read:

6487. (a) For taxpayers filing returns on other than an annual basis, except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every

notice of a deficiency determination shall be mailed within three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.

(b) For taxpayers filing returns on an annual basis, except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined.

(c) The limitation specified in this section does not apply in case of a sales tax proposed to be determined with respect to sales of property for the storage, use, or other consumption of which notice of a deficiency determination has been or is given pursuant to subdivision (a) or (b) or pursuant to Section 6486, 6515, or 6536. The limitation specified in this section does not apply in case of an amount of use tax proposed to be determined with respect to storage, use, or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to subdivision (a) or (b) or pursuant to Section 6486, 6515, or 6536.

SEC. 5.2. Section 6591.5 of the Revenue and Taxation Code is amended to read:

6591.5. (a) (1) For interest required to be paid to the state upon underpayments of tax to the state, " modified adjusted rate per annum" means the adjusted annual rate established pursuant to subdivision (c), plus three percentage points.

(2) For interest required to be paid by the state upon overpayments of tax, "modified adjusted rate per annum" means the adjusted annual rate established pursuant to subdivision (d).

(b) "Modified adjusted rate per month, or fraction thereof" means the modified adjusted rate per annum divided by 12.

(c) The rate established for interest to be paid upon underpayments of tax shall be determined in accordance with the provisions of Section 6621 of the Internal Revenue Code which establish the underpayment rate, except that the determination specified in Section 6621(b) of the Internal Revenue Code shall be modified to be determined semiannually as follows:

(1) The rate for January shall apply for the following July 1 to December 31, inclusive.

(2) The rate for July shall apply for the following January 1 to June

30, inclusive.

(d) (1) Except as provided in paragraph (2), the rate established for interest to be paid by the state upon overpayments of tax shall be equal to the bond equivalent rate of 13-week treasury bills auctioned, rounded to the nearest full percent (or if a multiple of one-half of 1 percent, the rate shall be increased to the next highest full percent), as follows:

(A) The bond equivalent rate of 13-week treasury bills established at the first auction held during the month of January shall apply for the following July 1 to December 31, inclusive.

(B) The bond equivalent rate of 13-week treasury bills established at the first auction held during the month of July shall apply for the following January 1 to June 30, inclusive.

(2) For the period July 1, 1991, through June 30, 1992, the rate to be paid by the state upon overpayments of tax shall be equal to the bond equivalent rate of 13-week treasury bills established at the auction held on July 1, 1991, rounded to the nearest full percent (or if a multiple of one-half of 1 percent, the rate shall be increased to the next highest full percent).

(e) For purposes of this part, 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 computed as simple interest, not compound interest.

SEC. 6. Section 6701 of the Revenue and Taxation Code is amended to read:

6701. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject thereto, to place with it such security as the board may determine. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section and Section 6815. The amount of the security shall be fixed by the board but, except as noted below, shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. In case of a person who, pursuant to Section 6070 of this part, has been given notice of hearing to show cause why his or her permit or permits should not be revoked, or a person whose permit or permits has been revoked or suspended, the amount of the security shall not be greater than three times the average liability of persons filing returns for quarterly periods or five times the average liability of persons required to file returns for monthly periods, or ten thousand dollars ($10,000), whichever amount is the lesser. The limitations herein provided apply regardless of the type of security placed with the board. The

amount of the security may be increased or decreased by the board subject to the limitations herein provided. The board may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest, or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his or her address as it appears in the records of the board. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 7. Section 6812 of the Revenue and Taxation Code is amended to read:

6812. (a) If the purchaser of a business or stock of goods fails to withhold from the purchase price as required, he or she becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price, valued in money.

(b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice, to the purchaser at his or her address as it appears on the records of the board, of the amount that must be paid as a condition of issuing the certificate.

(2) For purposes of paragraph (1), the latest of the following dates shall apply:

(A) The date the board receives a written request from the purchaser for a certificate.

(B) The date of the sale of the business or stock of goods.

(C) The date the former owner's records are made available for audit.

(c) Failure of the board to mail the notice referred to in subdivision (b) will release the purchaser from any further obligation to withhold from the purchase price as above provided. The last date upon which the obligation of the successor may be enforced shall be not later than three years after the date the board is notified of the purchase of the business or stock of goods.

SEC. 7.4. Section 6907 of the Revenue and Taxation Code, as amended by Chapter 85 of the Statutes of 1991, is amended to read:

6907. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the calendar month following the month during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 7.6. Section 6936 of the Revenue and Taxation Code, as amended by Chapter 85 of the Statutes of 1991, is amended to read:

6936. In any judgment, interest shall be allowed at the modified adjusted rate per annum established for overpayments pursuant to Section 6591.5 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

SEC. 8. Section 7056 of the Revenue and Taxation Code is amended to read:

7056. (a) (1) Excepting the information set forth on permits issued under Article 2 (commencing with Section 6066) of Chapter 2, the information set forth on certificates of registration issued pursuant to Section 6226, and the terms of any settlement made pursuant to Section 7093, it is unlawful for the board, any person having an administrative duty under this part or any person who obtains access to information contained in, or derived from, sales and use tax records of the board pursuant to subdivision (b) or (c), to make known in any manner whatever the business affairs, operations, or any other information pertaining to any retailer or any other person required to report to the board or pay a tax pursuant to this part, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person.

(2) It is also unlawful for any person, other than an officer or employee of a county, city and county, or city, who obtains access to information contained in, or derived from, sales and use tax records of the board pursuant to subdivision (b), to retain that information after that person's contract with the county, city and county, or city has expired.

(3) Notwithstanding paragraphs (1) and (2), the Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(b) When requested by resolution of the legislative body of any county, city and county, or city, the board shall permit any duly authorized officer or employee of the county, city and county, city, or other person designated by that resolution, to examine all of the sales and use tax records of the board pertaining to sales and use taxes collected for the county, city and county, or city by the board pursuant to contract entered into between the board and the county, city and county, or city under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)).

(1) The resolution shall certify that any person designated by the resolution, other than an officer or employee meets all of the following conditions:

(A) Has an existing contract with the county, city and county, or city, to examine those sales and use tax records.

(B) Is required by that contract to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the county, city and county, or city who is authorized by the resolution to examine the information.

(C) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract.

(D) Is prohibited by that contract from retaining the information contained in, or derived from, those sales and use tax records, after that contract has expired.

(2) Information obtained by examination of board records as permitted in this subdivision shall be used only for purposes related to the collection of local sales and use taxes by the board pursuant to the contract, or for purposes related to other governmental functions of the county, city and county, or city set forth in the resolution.

(c) When requested by resolution of the legislative body of a district, the board shall permit any duly authorized officer or employee of the district to examine the records of the board pertaining to transactions and use taxes collected for the district by the board pursuant to contract entered into between the board and the district. Information obtained by examination of the board records as permitted in this subdivision shall be used only for purposes related to the collection of district transactions and use taxes by the board pursuant to the contract.

(d) If the board believes that any information obtained pursuant to subdivision (b) or (c) has been disclosed to any person not authorized or designated by the resolution of the legislative body of the county, city and county, city, or district, or has been used for purposes not permitted by subdivision (b) or (c), then notwithstanding subdivisions (b) and (c), the board may impose conditions on access to its sales and use tax records which the board considers reasonable, in order to protect the confidentiality of those records.

(e) Predecessors, successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and

amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

SEC. 9. Section 7096 of the Revenue and Taxation Code is amended to read:

7096. (a) A taxpayer may file a claim with the board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold by the board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution. Each claimant applying for reimbursement shall file a claim with the board which shall be in such form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold was caused by board error.

(2) Prior to the levy or notice to withhold, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date of the levy or notice to withhold. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

SEC. 10. Section 7202 of the Revenue and Taxation Code is amended to read:

7202. (a) The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1 ¼ percent of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067 of this code.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) of this division relating to sales tax and not inconsistent with this part,

shall automatically become a part of the sales tax ordinance of the county.

(4) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(5) A provision that such ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there is exempted from the sales tax 80 percent of the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided, that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(A) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the city and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(B) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the

seller under Section 6067 of this code.

(C) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) of this division relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(D) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(E) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(F) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(G) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(H) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 10.3. Section 7202.6 of the Revenue and Taxation Code is amended to read:

7202.6. (a) The redevelopment agency of any city, county, or city and county which has adopted a sales and use tax ordinance pursuant to this part and containing the provision described in Section 7202.5 may adopt a sales and use tax ordinance in accordance with the provisions of this part, provided the redevelopment agency's sales and use tax is levied under an ordinance including the following provisions:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the project area at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the project area, and a use tax of 1 percent or less of the purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the project area. The rate of tax imposed by the ordinance shall not exceed the rate of tax imposed by the city, county, or city and county ordinance.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the redevelopment agency as the taxing agency shall be substituted for that of the state (but the name of the redevelopment agency shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the agency.

(4) A provision that the agency shall contract prior to the operative date of the agency sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the agency which shall continue in effect so long as the county and the city within which the agency is located have operative sales and use tax ordinances enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, city or redevelopment agency in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the project area and the city, county, or city and county in which the sale is made and directly and exclusively in the use of that aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in

Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by those operators directly and exclusively in the use of that aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) The ordinance shall contain an enacting clause which states as follows: "The redevelopment agency of the (City, County, or City and County) of _____ does ordain as follows:" The ordinance shall be signed by the chairman of the agency and attested by the clerk or secretary of the agency, and shall take effect immediately upon its final passage. However, the ordinance shall become operative on the first day of the first calendar quarter commencing more than 180 days after adoption of the ordinance. In all other respects, the ordinance shall be introduced and passed, and notice given by publication, in the manner provided by law. A redevelopment agency whose governing body is other than the city council or the board of supervisors shall not adopt an ordinance pursuant to this section unless the city council or board of supervisors has first adopted a resolution consenting to the adoption of the ordinance by the agency.

SEC. 10.5. Section 7203 of the Revenue and Taxation Code is amended to read:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county. Such tax shall be at the rate of 1¼ percent of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001) of this division, other than Section 6201 insofar as such provisions relate to the use tax except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from 80 percent of the use tax.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

Section 7261 of the Revenue and Taxation Code is amended to read:

7261. (a) The transactions tax portion of any transactions and use taxes ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the district at a rate of one-quarter of 1 percent, or a multiple thereof, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the district.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state and that an additional transactor's permit shall not be required if a seller's permit has been or is issued to the transactor under Section 6067.

(3) A provision that all amendments subsequent to the effective date of this part to Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part shall automatically become a part of the transactions and use taxes ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(4) A provision that the amount subject to tax shall not include the amount of sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(5) A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(6) A provision that sales of property to be used outside the

district which are shipped to a point outside the district, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax.

For purposes of this section, "delivery" of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code shall be satisfied by registration to an out-of-district address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence.

"Delivery" of commercial vehicles shall be satisfied by registration to a place of business out of district and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(7) A provision that the sale of tangible personal property is exempt from tax if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. A lease of tangible personal property which is a continuing sale of such property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance. For the purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 11. Section 7262 of the Revenue and Taxation Code is amended to read:

7262. (a) The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use, or other consumption in the district of tangible personal property purchased from any retailer for storage, use, or other consumption in the district. The tax shall be at a rate of one-quarter of 1 percent, or a multiple thereof, of the sales price of the property whose storage, use, or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(1) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the

definition of that phrase.

The following additional provisions shall be included:

(A) Except as provided in subparagraph (B), a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the district under the authority of the retailer.

(B) "A retailer engaged in business in the district" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the district.

(2) A provision that all amendments to the provisions of Part 1 (commencing with Section 6001) relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance. However, no amendment shall operate so as to affect the rate of tax imposed by the district's board.

(3) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the amount of any state-administered transactions or use tax.

(4) A provision that any person subject to a use tax under an ordinance adopted pursuant to this part shall be entitled to credit against that tax or any transactions tax, or to reimbursement for a transactions tax, paid to a district or retailer in a district imposing a transactions and use tax pursuant to this part.

(5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft, and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from the use tax.

(6) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from the tax if the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the

ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of the property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to the operative date of the ordinance. For purposes of this subdivision, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(b) This section shall become operative on January 1, 1988.

SEC. 12. Section 8951 of the Revenue and Taxation Code is amended to read:

8951. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any user or vendor to deposit with it such security as it may determine. Any security in the form of cash, government bonds, or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the manner provided for by this section and Section 8956. The board may sell the security at public sale if it becomes necessary to do so in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

SEC. 13. Section 9022 of the Revenue and Taxation Code is amended to read:

9022. (a) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he or she becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price valued in money.

(b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice to the purchaser at his or her address as it appears on the records of the board of the amount that must be paid as a condition of issuing the certificate.

(2) For purposes of paragraph (1), the latest of the following dates shall apply:

(A) The date the board receives a written request from the purchaser for a certificate.

(B) The date of the sale of the business or stock of goods.

(C) The date the former owner's records are made available for audit.

(c) Failure of the board to mail the notice referred to in subdivision (b) shall release the purchaser from any further obligation to withhold from the purchase price under this article. The last date upon which the obligation of the successor may be enforced shall be not later than three years after the date the board is notified of the purchase of the business or stock of goods.

SEC. 14. Section 11522 of the Revenue and Taxation Code is amended to read:

11522. If the purchaser of a business fails to withhold a sufficient amount of the purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires later, but in any event not later than 90 days after receiving the request, or 90 days from the date of the sale of the business, whichever period expires later, the board shall either issue the certificate or mail notice to the purchaser, at his or her address as it appears on the records of the board, of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold from the purchase price as provided in this article. The last date upon which the obligation of the successor may be enforced shall be not later than three years after the date the board is notified of the purchase of the business.

SEC. 15. Section 11524 of the Revenue and Taxation Code is amended to read:

11524. The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of assessment, not later than three years after the date the board is notified of the purchase of the business. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 11336) of Chapter 2. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. The provisions of this chapter with respect to the collection of any amount required to be paid under this part shall apply when the notice becomes final.

SEC. 16. Section 38501 of the Revenue and Taxation Code is amended to read:

38501. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject thereto, to place with it such security as the board may determine. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board

in trust to be used solely in the manner provided by this section and Section 38565. The amount of the security shall be fixed by the board but, except as noted below, shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. The limitations herein provided apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to the limitations herein provided. The board may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest, or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his or her address as it appears in the records of the board. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 17. Section 38562 of the Revenue and Taxation Code is amended to read:

38562. If the purchaser of a business fails to withhold from the purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than 90 days after receiving the request, or 90 days from the date of the sale of the business, whichever period expires later, the board shall either issue the certificate or mail notice to the purchaser, at his or her address as it appears on the records of the board, of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold from the purchase price as above provided. The last date upon which the obligation of the successor may be enforced shall be not later than three years after the date the board is notified of the purchase of the business.

SEC. 18. Section 38564 of the Revenue and Taxation Code is amended to read:

38564. The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of a deficiency determination, not later than three years after the date

the board is notified of the purchase of the business. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 38441) of Chapter 5. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. The provisions of this chapter with respect to the collection of any amount required to be paid under this part shall apply when the notice becomes final.

SEC. 19. Section 43102 of the Revenue and Taxation Code is amended to read:

43102. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject to this part to place with it such security as the board may determine to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail. If service is made by mail, service shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 20. Section 45102 of the Revenue and Taxation Code is amended to read:

45102. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail.

If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of

service by mail. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 21. Section 50108.2 of the Revenue and Taxation Code is amended to read:

50108.2. (a) The board, whenever it determines it to be necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at a public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due.

(b) Notice of the sale authorized in subdivision (a) shall be served upon the person who placed the security personally or by mail. If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at a private sale at a price not lower than the prevailing market price. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 22. Section 18 of Chapter 85 of the Statutes of 1991 is repealed.

SEC. 23. Section 20 of Chapter 85 of the Statutes of 1991, as amended by Section 14 of Chapter 88 of the Statutes of 1991, is amended to read:

Sec. 20. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Sections 14 and 15 of this act shall become operative on July 1, 1991, and Sections 1 to 13, inclusive, of this act and Sections 16 and 17 of this act shall become operative on July 15, 1991, and shall apply to sales and purchases of tangible personal property made on and after July 15, 1991.

SEC. 24. With respect to taxes due on tangible personal property arising from the amendment of Sections 6359 and 6385 of, and the repeal of Sections 6359.6 and 6362 of, the Revenue and Taxation Code by Chapters 85 and 88 of the Statutes of 1991, no penalty may be imposed for any act or omission that occurs prior to October 1, 1991, and that is a result of insufficient information or instruction from the

State Board of Equalization.

SEC. 25. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the fair, consistent, and orderly administration of state and local taxes as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 237

An act to amend Section 26299.007 of the Government Code, relating to county justice facilities.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 26299.007 of the Government Code is amended to read:

26299.007. "County" means Humboldt, Los Angeles, Riverside, San Bernardino, Stanislaus, and Ventura Counties.

CHAPTER 238

An act to add Section 54954.4 to the Government Code, relating to local agency costs.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 54954.4 is added to the Government Code, to read:

54954.4. (a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the

Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance 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) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

CHAPTER 239

An act to amend Section 1367.65 of the Health and Safety Code, and to amend Section 11512.29 of the Insurance Code, relating to health insurance.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991]

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 referral by a participating nurse practitioner, participating certified nurse midwife, or participating 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 11512.29 of the Insurance Code is amended 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 referral by a participating nurse practitioner, participating certified nurse midwife, or participating 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 240

An act to amend Section 779.14 of the Insurance Code, relating to insurance.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 779.14 of the Insurance Code is amended to read:

779.14. (a) Each individual policy, group certificates or notices of proposed insurance shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid promptly to the person entitled thereto or credited to the next payment or payments due on the indebtedness; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

(b) An individual policy or group certificate of credit life insurance or of credit disability insurance or combination thereof shall allow a debtor to rescind the insurance within 10 days of receipt of the policy or certificate or the notice of proposed insurance issued pursuant to Section 779.7 and receive a full refund, or credit (if financed), of any premium that has been paid. The right to rescind shall be disclosed on the face of the policy or certificate or notice of proposed insurance in at least 10-point type.

CHAPTER 241

An act to amend Sections 1250.2 and 1266.1 of the Health and Safety Code, and to amend Section 5652.5 of the Welfare and Institutions Code, relating to psychiatric health facilities.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 1250.2 of the Health and Safety Code is amended to read:

1250.2. (a) As defined in Section 1250, "health facility" includes the following type: "psychiatric health facility" means a health facility, licensed by the State Department of Mental Health, which provides 24-hour inpatient care for mentally disordered,

incompetent, or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. This care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.

It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a nonhospital setting. The State Department of Mental Health shall require regular utilization reviews of admission and discharge criteria and lengths of stays in order to assure that these patients are moved to less restrictive levels of care as soon as appropriate.

(b) The State Department of Mental Health may issue a special permit to a psychiatric health facility for it to provide structured outpatient services (commonly referred to as SOPS) consisting of morning, afternoon, or full daytime organized programs, not exceeding 10 hours, for acute daytime care for patients admitted to the facility. This subdivision shall not be construed as requiring a psychiatric health facility to apply for a special permit to provide these alternative levels of care.

It is recognized by the Legislature that with access to structured outpatient services, as an alternative to 24-hour inpatient care, certain patients would be provided with effective intervention and less restrictive levels of care. For certain patients, the less restrictive levels of care eliminate the need for inpatient care, enable earlier discharge from inpatient care by providing a continuum of care with effective aftercare services, or reduce or prevent the need for a subsequent readmission to inpatient care.

(c) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

SEC. 2. 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.

(f) (1) Any licensee desiring to obtain a special permit to offer and provide structured outpatient services shall file an application with the State Department of Mental Health.

(2) The application for a special permit, if any, shall be submitted with each new or renewal application for a license for a psychiatric health facility, and shall be accompanied by a reasonable fee, as determined by the State Department of Mental Health, not to exceed the actual costs of administration related to the special permit. An application for a special permit submitted by a psychiatric health facility operated by a public entity shall be exempt from the fee required pursuant to this section for the issuance of the special permit.

(3) The State Department of Mental Health shall not issue a special permit unless the applicant furnishes all of the following:

(A) Its annual licensing fee required pursuant to subdivision (a).

(B) A completed application submitted on forms furnished by the department.

(C) A written agreement ensuring that the facility will have additional staffing for the services to be provided under the special permit, that the additional staffing will meet the same professional standards as required by regulation for inpatient services, and that a coordinator of these services will be appointed.

(D) Any other information or documentation as may be required by the department for its proper and efficient administration and enforcement of special permit services.

(4) The provision of structured outpatient services pursuant to a special permit may be as an alternative to admission to inpatient services, as aftercare services following discharge from inpatient care, or as both.

SEC. 3. 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 will be applying for licensure and do not intend to use any Short-Doyle funds pursuant to Section 5707 shall submit to the local mental health director and the governing body in the county in which the facility is to be located a written and dated proposal of the services to be provided. The local mental health director and governing body shall have 30 days during which to provide any advice and recommendations regarding licensure, as they deem appropriate. At any time after the 30-day period, the organizations may then submit their applications, along with the mental health director's and governing body's advice and 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, including provisions for a medical evaluation.
(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.

(T) Structured outpatient services to be provided under special permit.

(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) (A) In using the guidelines specified in this subdivision, the department shall take into account local conditions affecting the costs or charges.

(B) In those psychiatric health facilities authorized by special permit to offer structured outpatient services not exceeding 10 daytime hours, the following limits on per diem rates shall apply:

(i) The per diem charge for patients in both a morning and an afternoon program on the same day shall not exceed 60 percent of the facility's authorized per diem charge for inpatient services.

(ii) The per diem charge for patients in either a morning or afternoon program shall not exceed 30 percent of the facility's authorized per diem charge for inpatient services.

(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 242

An act to amend Sections 61378, and 61935 of, and to repeal Section 37985 of, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 37985 of the Food and Agricultural Code is repealed.

SEC. 2. Section 61378 of the Food and Agricultural Code is amended to read:

61378. (a) The allowance or gift of any money, credit, or compensation, or the lending of anything of value, to a wholesale customer for advertising or display in connection with the sale of dairy products classified as class 1, except flavored milks or yogurts is an unlawful practice. Payments or loans regarding products that are exempt from the prohibition of this section apply only to those products which are sold under a seller's own registered brand. The cost of any such allowance shall be borne by the seller.

(b) Notwithstanding subdivision (a), a distributor may loan a wholesale customer refrigerated display cabinets at the rate of one cabinet per premises if all of the following conditions are met:

(1) The cabinets are owned or leased by the distributor making the loan.

(2) Only products exempt from the prohibition of this section owned by the distributor at the time of sale of the products to the wholesale customer are stored in the cabinets.

(3) The location of the cabinets between wholesale customer premises is changed at least once every three weeks with at least two weeks intervening between the date of removal of any such cabinet from the premises of a wholesale customer and the loan of another cabinet by the distributor for use at the same premises.

(4) The cost of any loan of a cabinet is borne by the owner or lessor of the cabinet.

SEC. 3. Section 61935 of the Food and Agricultural Code is amended to read:

61935. (a) Class 4a comprises all market milk, market skim milk, or market cream used in the manufacture of butter, dried milk, dried skim milk, nonfat dry milk solids, defatted milk solids, dried buttermilk, and all market milk, market skim milk, or market cream which is supplied to consumers as condensed milk, condensed skim

milk, evaporated skim milk, evaporated cream or clotted cream, or evaporated milk, and any milk products which are UHT products, as defined in Chapter 9 (commencing with Section 39701) of Part 3 of Division 15, or ultrapasteurized, and sold for use outside of the 48 contiguous states in the United States, or yogurt, soft fresh cheese (fromage frais), uncreamed, creamed, or partially creamed cottage cheese, sour cream, sour half-and-half, or light sour cream which is sold for use outside the boundaries of the United States, or any product for which no definition and standards are prescribed in Division 15 (commencing with Section 32501), except the products defined in paragraph (2) of subdivision (a) of Section 61932.

(b) Class 4b comprises all market milk, market skim milk, or market cream used in the manufacture of cheese other than cottage cheese.

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 243

An act to amend Section 1270 of, and to add Section 1271.1 to, the Business and Professions Code, relating to clinical laboratories, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 1270 of the Business and Professions Code is amended to read:

1270. (a) On and after January 1, 1991, no person may perform examinations of cytological slides without first obtaining a license as a cytotechnologist from the department, except that those persons employed by licensed clinical laboratories as cytotechnologists and certified as cytotechnologists by the department on or before January 1, 1991, shall be licensed by the department on or before January 1, 1993. Cytotechnologist licenses shall be issued and renewed by the department for periods of two years. This subdivision shall not apply to persons holding a valid, unrevoked, unsuspended physician's and surgeon's certificate issued pursuant to

Chapter 5 (commencing with Section 2000).

(b) The issuance of a cytotechnologist license shall be contingent upon the applicant's satisfactory performance, as defined in regulation, in a competency testing program for cytotechnologists which may be administered by the department or by a competency testing service or program approved by the department. The competency testing program established pursuant to this section shall be periodically reviewed and revised by the department, if necessary, to ensure that the program is consistent with federal competency testing requirements issued under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578; 42 U.S.C. Sec. 263a, Section 353 of the Public Health Service Act).

(c) Notwithstanding subdivision (b), the department may issue a temporary cytotechnologist's license to a person who satisfies the requirements for admission to the examination unless the person has failed a previous examination for a cytotechnologist's license. A temporary license issued by the department pursuant to this subdivision shall be valid for a period of time not exceeding 90 days after the date the department has adopted a competency testing program pursuant to subdivision (b).

(d) The department may issue a cytotechnologist's license without examination to an applicant who satisfies one of the following:

(1) Passage of an examination of a national accrediting board whose requirements are equal to or greater than those required by this chapter or by regulations adopted pursuant to this chapter, as determined by the department.

(2) Passage of an examination of another state in which the requirements imposed by laws and regulations regarding the examination are equal to or greater than those required by this chapter or by regulations adopted pursuant to this chapter, as determined by the department.

This subdivision shall not apply to a person who has passed an examination of a national accrediting board or another state prior to that board's or state's establishment of requirements which are equal to or greater than those required by this chapter or by regulations adopted pursuant to this chapter, as determined by the department. The department may, however, make exceptions to the requirements of this subdivision in cases where the department determines that the applicant is otherwise qualified for licensure.

(e) The department shall not issue any temporary cytotechnologist's license pursuant to subdivision (c) or any cytotechnologist's license without examination pursuant to subdivision (d) after the department adopts a competency testing program pursuant to subdivision (b).

SEC. 2. Section 1271.1 is added to the Business and Professions Code, to read:

1271.1. (a) Clinical laboratories which are licensed pursuant to this chapter and provide cytology services shall, if the licensee ceases

operation, preserve records, reports, cytology slides, and cell blocks as prescribed in subdivision (g) of Section 1271 and Section 1274.

(b) Any person injured as a result of the licensee's abandonment of records may bring an action in any court of competent jurisdiction for the amount of any damages suffered as a result. In the event the licensee was a corporation or partnership which has been dissolved, the person injured may bring an action against that corporation's or partnership's principal officers of record at the time of the dissolution.

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

(1) "Abandonment of records" means violating subdivision (a) and thereby leaving patients and physicians and surgeons without access to information to which they are entitled pursuant to this chapter.

(2) "Principal officers" means:

(A) In the case of a partnership other than a limited partnership, any partner.

(B) In the case of a limited partnership, any general partner, as defined in subdivision (i) of Section 15611 of the Corporations Code.

(C) In the case of a corporation, the chairperson of the board, the chief executive officer, and the president of the corporation.

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 alleviate the severe shortage of cytotechnologists in this state by authorizing the issuance of temporary cytotechnologist's licenses and the issuance of licenses without examination, and in order to provide for the preservation of records, reports, cytology slides, and cell blocks, when clinical laboratories which provide cytology services cease operation, it is necessary for this act to take effect immediately.

CHAPTER 244

An act to add Sections 56111.9 and 56111.10 to the Government Code, and to amend Section 99231 of the Public Utilities Code, relating to correctional facilities.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 56111.9 is added to the Government Code, to read:

56111.9. (a) Notwithstanding Section 56110, upon approval of the commission, the City of Calipatria may annex noncontiguous territory of not more than 1,300 acres in area, located in the County of Imperial and which constitutes a state correctional facility. If, after the completion of the annexation, the State of California sells that territory or any part thereof, all of that territory which is no longer owned by the state shall cease to be a part of the City of Calipatria.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed to the City of Calipatria pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) The City of Calipatria may enter into an agreement with any other city under which the city apportions any increase in state subventions resulting from the annexation of territory pursuant to this section.

SEC. 2. Section 56111.10 is added to the Government Code, to read:

56111.10. (a) Notwithstanding Section 56110, upon approval of the commission, Crescent City may annex noncontiguous territory of not more than 300 acres in area, located in the County of Del Norte and which constitutes a state correctional facility. If, after the completion of the annexation, the State of California sells that territory or any part thereof, all of the territory which is no longer owned by the state shall cease to be a part of Crescent City.

(b) If territory is annexed pursuant to this section, the city may

not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed to Crescent City pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) Crescent City may enter into an agreement with any other city under which the city apportions any increase in state subventions resulting from the annexation of territory pursuant to this section.

SEC. 3. Section 99231 of the Public Utilities Code is amended to read:

99231. All operators and city or county governments with responsibility for providing municipal services to a given area collectively may file claims for only those moneys that represent that area's apportionment.

The term "apportionment" has reference to that proportion of the total annual revenue anticipated to be received in the fund that the population of the area bears to the total population of the county.

The term "area" means:

(a) With reference to a transit district, the entire area stated in its enabling legislation or franchise, excluding cities therein which have retained the right to join the district at a later time.

(b) With reference to a transit development board, the entire area stated in its enabling legislation, including the municipalities therein which operated bus systems prior to the creation of the board and subsequently conveyed such systems to the board.

(c) With reference to a county government, the unincorporated area of the county.

(d) With reference to a city government, the corporate area of the city.

(e) With reference to the City and County of San Francisco and the Counties of Alameda and Contra Costa, the unincorporated area thereof (and with reference to a city in those counties, the corporate area of the city) which is outside the area of the Alameda-Contra Costa Transit District and which is not receiving adequate local public transportation services, as determined by the Metropolitan Transportation Commission pursuant to subdivision (b) of Section 99207.

(f) Where a transit district, a transit development board, or a county or city, provides public transportation services beyond its

boundaries, its area, for purposes of this section, shall also include:

(1) All of that area within one-half mile of any route which extends beyond its boundaries.

(2) All of the corporate area of a city to which it provides such services pursuant to contract or prior express authority of the secretary.

The transportation planning agency may rely, in its determination of populations, on estimates which are used by the Controller for distributing money to cities under Section 2107 of the Streets and Highways Code and to counties under Section 11005 of the Revenue and Taxation Code, and may contract with the Department of Finance or other appropriate state agency for an annual determination of such population estimates as may be necessary.

(g) With reference to the County of Riverside, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities and the County of Riverside. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1981, as determined by the Riverside County Transportation Commission.

(h) With reference to the County of San Bernardino, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities, including the most populous city, and the County of San Bernardino. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1985, as determined by the San Bernardino County Transportation Commission.

(i) With reference to the County of Monterey, the area including the Correctional Training Facility-Soledad even if annexed by the City of Soledad.

(j) With reference to the County of Del Norte, the area including the Pelican Bay State Prison, even if annexed by the City of Crescent City.

(k) With reference to the County of Imperial, the area including the Calipatria State Prison, even if annexed by the City of Calipatria.

(*l*) With reference to the County of Lassen, the area including the California Correctional Center, even if annexed by the City of Susanville.

(m) With reference to the County of Riverside, the area including the Chuckawalla Valley State Prison, even if annexed by the City of Blythe.

SEC. 4. The Legislature finds and declares that, for purposes of Sections 1 and 2 of this act, a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City of Calipatria and Crescent City.

CHAPTER 245

An act to amend Section 1940.1 of the Civil Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 1940.1 of the Civil Code is amended to read:

1940.1. (a) No person may require an occupant of a residential hotel, as defined in Section 50519 of the Health and Safety Code, to move, or to check out and reregister, before the expiration of 30 days occupancy if a purpose is to avoid application of this chapter pursuant to paragraph (1) of subdivision (b) of Section 1940.

(b) In addition to any remedies provided by local ordinance, any violation of subdivision (a) is punishable by a civil penalty of five hundred dollars ($500). In any action brought pursuant to this section, the prevailing party shall be entitled to reasonable attorney's fees.

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 there are pending cases that require clarification of the intended effect of Section 1940.1 of the Civil Code, it is necessary that this act take effect immediately.

CHAPTER 246

An act to add Section 7299.5 to the Government Code, relating to state agencies.

[Approved by Governor July 29, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 7299.5 is added to the Government Code, to read:

7299.5. The State Personnel Board may exempt state agencies from the requirements of Section 7299.4, where the State Personnel Board determines that any of the following conditions apply:

(a) The agency does not furnish information or render services to the public.

(b) The agency has consistently received such limited public

contact with the non-English speaking public that it has not been required to employ bilingual staff under Section 7292.

In order to receive an exemption, each state agency must annually petition the State Personnel Board for the exemption and receive approval in writing. An agency may not receive an exemption for more than three consecutive years.

CHAPTER 247

An act to amend Sections 11573.5 and 11581 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 29, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 11573.5 of the Health and Safety Code is amended to read:

11573.5. (a) At the time of application for issuance of a temporary writ pursuant to Section 11573, if proof of the existence of the nuisance depends, in whole or part, upon the affidavits of witnesses who are not peace officers, upon a showing of prior threats of violence or acts of violence by any defendant or other person, the court may issue orders to protect those witnesses, including, but not limited to, nondisclosure of the name, address, or any other information which may identify those witnesses.

(b) A temporary writ issued pursuant to Section 11573 may include closure of the premises pending trial when a prior writ does not result in the abatement of the nuisance. The duration of the writ shall be within the court's discretion. In no event shall the total period of closure pending trial exceed one year. Prior to ruling on a request for closure the court may order that some or all of the rent payments owing to the defendant be placed in an escrow account for a period of up to 90 days or until the nuisance is abated. If the court subsequently orders a closure of the premises, the money in the escrow account shall be used to pay for relocation assistance pursuant to subdivision (d). In ruling upon a request for closure, whether for a defined or undefined duration, the court shall consider all of the following factors:

(1) The extent and duration of the nuisance at the time of the request.

(2) Prior efforts by the defendant to comply with previous court orders to abate the nuisance.

(3) The nature and extent of any effect which the nuisance has upon other persons, such as residents or businesses.

(4) Any effect of prior orders placing displaced residents' or occupants' rent payments into an escrow account upon the

defendant's efforts to abate the nuisance.

(5) The effect of granting the request upon any resident or occupant of the premises who is not named in the action, including the availability of alternative housing or relocation assistance, the pendancy of any action to evict a resident or occupant, and any evidence of participation by a resident or occupant in the nuisance activity.

(c) In making an order of closure pursuant to this section, the court may order the premises vacated and may issue any other orders necessary to effectuate the closure. However, all tenants who may be affected by the order shall be provided reasonable notice and an opportunity to be heard at all hearings regarding the closure request prior to the issuance of any order.

(d) In making an order of closure pursuant to this section, the court shall order the defendant to provide relocation assistance to any tenant ordered to vacate the premises, provided the court determines that the tenant was not actively involved in the nuisance activity. The relocation assistance ordered to be paid by the defendant shall be in the amount necessary to cover moving costs, security deposits for utilities and comparable housing, adjustment in any lost rent, and any other reasonable expenses the court may deem fair and reasonable as a result of the court's order.

(e) At the hearing to order closure pursuant to this section, the court may make the following orders with respect to any displaced tenant not actively involved in the nuisance:

(1) Priority for senior citizens, physically handicapped persons, or persons otherwise suffering from a permanent or temporary disability for claims against money for relocation assistance.

(2) Order the local agency seeking closure pursuant to this section to make reasonable attempts to seek additional sources of funds for relocation assistance to displaced tenants, if deemed necessary.

(3) Appoint a receiver to oversee the disbursement of relocation assistance funds, whose services shall be paid from the escrow fund.

(4) Where a defendant has paid relocation assistance pursuant to subdivision (d), the escrow account under subdivision (b) may be released to the defendant and no appointment under paragraph (3) shall be made.

(f) (1) The remedies set forth pursuant to this section shall be in addition to any other existing remedies for nuisance abatement actions, including, but not limited to, the following:

(A) Capital improvements to the property, such as security gates.

(B) Improved interior or exterior lighting.

(C) Security guards.

(D) Posting of signs.

(E) Owner membership in neighborhood or local merchants' associations.

(F) Attending property management training programs.

(G) Making cosmetic improvements to the property.

(2) At all stages of an action brought pursuant to this article, the

court has equitable powers to order steps necessary to remedy the problem and enhance the abatement process.

SEC. 2. Section 11581 of the Health and Safety Code is amended to read:

11581. (a) If the existence of the nuisance is established in the action, an order of abatement shall be entered as a part of the judgment, which order shall direct the removal from the dwelling, building, or place of all fixtures, musical instruments, and other movable property used in conducting, maintaining, aiding, or abetting the nuisance and shall direct their sale in the manner provided for the sale of chattels under execution.

(b) (1) The order shall provide for the effectual closing of the dwelling, building, or place against its use for any purpose, and for keeping it closed for a period of one year. This subdivision is intended to give priority to closure. Any alternative to closure may be considered only as provided in this section.

(2) In addition, the court may assess a civil penalty not to exceed twenty-five thousand dollars ($25,000) against any or all of the defendants, based upon the severity of the nuisance and its duration.

(3) In establishing the amount of any civil penalty, the court shall consider all of the following factors:

(A) The actions taken by the defendant to mitigate or correct the problem at the dwelling, building, or place or the reasons why the defendant did not take any such action.

(B) The cost to the government of investigating and correcting the condition.

(C) Any previous actions brought against the defendant pursuant to this article.

(D) Any other factor deemed by the court to be relevant.

(c) (1) If the court finds that any vacancy resulting from closure of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is responsible for the existence of the nuisance, or the person who knowingly permits controlled substances to be unlawfully sold, served, stored, kept, or given away in or from a building or place he or she owns, to pay damages in an amount equal to the fair market rental value of the building or place for one year to the city or county in whose jurisdiction the nuisance is located for the purpose of carrying out their drug prevention and education programs. If awarded to a city, eligible programs may include those developed as a result of cooperative programs among schools, community agencies, and the local law enforcement agency. If awarded to a county, funds shall be used for those programs that are part of the drug program plan, as specified in Section 11983.2. These funds shall not be used to supplant existing city, county, state, or federal resources used for drug prevention and education programs.

(2) For purposes of this subdivision, the actual amount of rent being received for the rental of the dwelling, building, or place, or

the existence of any vacancy therein, may be considered, but shall not be the sole determinant of the fair market rental value. Expert testimony may be used to determine the fair market rental value.

CHAPTER 248

An act to amend Sections 25827 and 25828 of the Government Code, to amend Section 5473.11 of, and to add Sections 6520.10, 6520.11, and 6520.12 to, the Health and Safety Code, relating to delinquent charges.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 25827 of the Government Code is amended to read:

25827. (a) The board of supervisors of each county may collect or contract for the collection, or both, of garbage, waste, refuse, rubbish, offal, trimmings, or other refuse matter under such terms and conditions as may be prescribed by the board of supervisors by resolution or ordinance. For such purposes the board of supervisors may either levy a yearly tax on property within the unincorporated area of the county or impose a reasonable charge against the real property benefited for the services provided. The tax or charge shall not be applicable to property within existing garbage disposal districts.

(b) If the county provides compulsory collection service, a resolution or ordinance adopted pursuant to this section shall provide for reduced charges, rebates, or exemptions for properties that do not require regular collection service. The resolution or ordinance shall exempt undeveloped property from compulsory service.

SEC. 2. Section 25828 of the Government Code is amended to read:

25828. If services are provided by a county pursuant to Section 25827, and if the service is compulsory or provided at the request of the property owner, the cost of service which remains unpaid for a period of 60 or more days after the close of the period for which they were billed may be collected by the county as provided herein.

(a) Once a year the board of supervisors shall cause to be prepared a report of delinquent charges. Upon receipt of the report the board shall fix a time, date, and place for hearing the report and any protests or objections thereto.

(b) The board shall cause notice of the hearing to be mailed to the owners of property listed on the report not less than 10 days prior to the date of the hearing.

(c) At the hearing the board shall hear any objections or protests of property owners liable to be assessed for delinquent charges. The board may make revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.

(d) The delinquent charges set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of the delinquent charges. A certified copy of the confirmed report shall be filed with the county auditor, on or before August 10, for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation in the office of the county recorder of the county in which the property is situated of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes. All laws applicable to the levy, collection, and enforcement of county ad valorem taxes shall be applicable to the assessment, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the delinquent charges, as confirmed, relating to the property shall be transferred to the unsecured roll for collection.

SEC. 3. Section 5473.11 of the Health and Safety Code is amended to read:

5473.11. (a) An entity shall notify the assessee shown on the latest equalized assessment roll whenever delinquent and unpaid charges for services which would become a lien on the property pursuant to subdivision (b) remain delinquent and unpaid for 60 days.

(b) Notwithstanding any other provision of this article, charges for services and facilities furnished by the entity shall constitute a lien against the lot or parcel of land for which the service was provided if the charges remain delinquent for a period of 60 days, and the entity has notified the assessee of the property shown on the latest equalized assessment roll of the delinquent charges pursuant to subdivision (a) and the lien provided by this section.

(c) The lien provided herein shall have no force or effect until a certificate specifying the amount of the unpaid charges is recorded with the county recorder and when so recorded shall have the force, effect and priority of a judgment lien and continue for three years from the time of recording unless sooner released or otherwise discharged.

SEC. 4. Section 6520.10 is added to the Health and Safety Code, to read:

6520.10. On or before August 10, the board may certify to the board of supervisors and county auditor a statement of any delinquent and unpaid charges for sewer and other services, or either, requested in writing by the owner of the property that remain delinquent and unpaid for a period of 60 days or more on July 1.

The amount of any charges for sewer and other services, or either, included in the statement of delinquent and unpaid charges shall be added to and become a part of the annual taxes next levied upon the property for which the sewer service was provided and upon the property subject to the charges for any other district services and shall constitute a lien on that property as of the same time and in the same manner as does the tax lien securing the annual taxes. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the charges, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to the real property and the charges relating to the property shall be transferred to the unsecured roll for collection. The county shall deduct from the charges collected an amount sufficient to compensate the county for costs incurred in collecting the delinquent and unpaid charges. The amount of the compensation shall be fixed by agreement between the board of supervisors and the district's board of directors.

SEC. 5. Section 6520.11 is added to the Health and Safety Code, to read:

6520.11. A district shall notify the assessee shown on the latest equalized assessment roll whenever delinquent and unpaid charges for sewer and other services, or either, which could become a lien on the property pursuant to Section 6520.10 remain delinquent and unpaid for 60 days.

SEC. 6. Section 6520.12 is added to the Health and Safety Code, to read:

6520.12. In the event any charges for sewer and other services, or either, remain unpaid the amount of the unpaid charges may in the discretion of the district be secured at any time by recording in the office of the county recorder of any county, a certificate specifying the amount of the charges and the name and address of the person liable therefor.

From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards, and before the lien expires, acquired by him or her. The lien has the force, priority, and effect of a judgment lien and shall continue for 10 years from the date of the recording of the certificate unless sooner released or otherwise discharged. The lien may, within

10 years from the recording of the certificate or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new certificate in the office of the county recorder of any county and from the time of the recording the lien shall be extended to the real property in the county for 10 years unless sooner released or otherwise discharged.

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 249

An act to add Section 969f to the Penal Code, relating to crime.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 969f is added to the Penal Code, to read:

969f. (a) Whenever a defendant has committed a serious felony as defined in subdivision (c) of Section 1192.7, the facts that make the crime constitute a serious felony may be charged in the accusatory pleading. However, the crime shall not be referred to as a serious felony nor shall the jury be informed that the crime is defined as a serious felony. This charge, if made, shall be added to and be a part of the count or each of the counts of the accusatory pleading which charged the offense. If the defendant pleads not guilty to the offense charged in any count which alleges that the defendant committed a serious felony, the question whether or not the defendant committed a serious felony as alleged shall be tried by the court or jury which tries the issue upon the plea of not guilty. If the defendant pleads guilty of the offense charged, the question whether or not the defendant committed a serious felony as alleged shall be separately admitted or denied by the defendant.

(b) In charging an act or acts that bring the defendant within the operation of paragraph (8) or (23) of subdivision (c) of Section 1192.7, it is sufficient for purposes of subdivision (a) if the pleading states the following:

"It is further alleged that in the commission and attempted commission of the foregoing offense, the defendant _____, personally [inflicted great bodily injury on another person, other than an accomplice] [used a firearm, to wit: _____,] [used a

dangerous and deadly weapon, to wit: _____,] within the meaning of Sections 667 and 1192.7 of the Penal Code."

CHAPTER 250

An act to amend Sections 2621.9 and 2694 of the Public Resources Code, relating to seismic safety.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 2621.9 of the Public Resources Code is amended to read:

2621.9. (a) A person who is acting as an agent for a seller of real property which is located within a delineated special studies zone, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a delineated special studies zone, provided the maps prepared pursuant to this chapter, or the information contained in the maps, are reasonably available.

(b) For the purposes of this section, in all transactions subject to Section 1102 of the Civil Code, disclosure shall be provided by one of the following means:

(1) The real estate transfer disclosure statement set out in Section 1102.6 of the Civil Code.

(2) The local option real estate transfer disclosure statement set out in subdivision (a) of Section 1102.6 of the Civil Code.

(3) The real estate contract and receipt for deposit.

(c) For the purposes of this section:

(1) "Reasonably available" means that for any county that includes areas covered by a delineated special studies map, a notice has been posted at the offices of the county recorder, county assessor, and county planning commission that identifies the location of the map and the effective date of the notice, which shall not exceed 10 days beyond the date the county received the map from the State Geologist.

(2) "Real estate contract and receipt for deposit" means the document containing the offer to sell or purchase real property, that when accepted becomes a binding contract, and that serves as an acknowledgment of a deposit if one is received.

(d) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the transferor:

(1) Persons specified in Section 1102.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(e) For purposes of this section, Section 1102.13 of the Civil Code

shall apply.

SEC. 2. Section 2694 of the Public Resources Code is amended to read:

2694. (a) A person who is acting as an agent for a seller of real property which is located within a seismic hazard zone, as designated under this chapter, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a seismic hazard zone, if the maps prepared pursuant to this chapter or the information contained in the maps are reasonably available.

(b) For the purposes of this section, in all transactions subject to Section 1102 of the Civil Code, disclosure shall be provided by one of the following means:

(1) The real estate transfer disclosure statement set out in Section 1102.6 of the Civil Code.

(2) The local option real estate transfer disclosure statement set out in subdivision (a) of Section 1102.6 of the Civil Code.

(3) The real estate contract and receipt for deposit.

(c) For purposes of this section:

(1) "Reasonably available" means that for any county that includes areas covered by seismic hazard maps, a notice is posted at the offices of the county recorder, county assessor, and county planning commission. The notice shall identify the location of the maps and the effective date of the notice, which shall not be 10 days beyond the date the county received the maps from the State Geologist. The notice may also be posted at any other location determined by the county to be necessary to achieve adequate distribution.

(2) "Real estate contract and receipt for deposit" means the document containing the offer to sell or purchase real property, that when accepted becomes a binding contract, and that serves as an acknowledgment of a deposit if one is received.

(d) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the transferor:

(1) Persons specified in Section 1102.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(e) For purposes of this section, Section 1102.13 of the Civil Code applies.

CHAPTER 251

An act to amend Section 52853 of the Education Code, relating to teacher staff development.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) An estimated one-third of the nation's 40 million schoolaged children are at risk because of factors, including, but not limited to, poverty, child abuse, neglect, homelessness, substance abuse, disability, pregnancy, limited-English language skills, and low self-esteem.

(b) There has been a rapid and alarming increase in the number of infants born in California who are affected by alcohol or other drugs during their mother's pregnancy. The Department of Alcohol and Drug Programs conservatively estimates that 70,000 of these infants are born in the state each year. Many children who have been exposed prenatally to drugs are now entering California's public school classrooms.

(c) The National Institutes of Health states that 10 to 15 percent of our population have learning disabilities that include dyslexia, attention-deficit disorders, and hyperactivity that are disabilities that lead to lower school performance.

(d) The Legislature recognizes that, for a variety of reasons, there is an increasing number of at-risk children. Teachers are inadequately prepared to deal effectively with, or to ask for support in dealing with, diverse populations. The social structure of the 1990's demand educational environments that address the risk factors facing these children.

SEC. 2. Section 52853 of the Education Code is amended to read:

52853. The schoolsite council shall develop a school plan which shall include:

(a) Curricula, instructional strategies and materials responsive to the individual needs and learning styles of each pupil.

(b) Instructional and auxiliary services to meet the special needs of non-English-speaking or limited-English-speaking pupils, including instruction in a language these pupils understand; educationally disadvantaged pupils; gifted and talented pupils; and pupils with exceptional needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers, including those participating in special programs. Staff development programs may include the use of program guidelines that have been developed by the superintendent for specific learning disabilities, including dyslexia, and other related disorders. The strategies included in the

guidelines and instructional materials that focus on successful approaches for working with pupils who have been prenatally substance exposed, as well as other at-risk pupils, may also be provided to teachers.

(d) Ongoing evaluation of the educational program of the school.

(e) Other activities and objectives as established by the council.

(f) The proposed expenditures of funds available to the school through the programs described in Section 52851. For purposes of this subdivision, proposed expenditures of funds available to the school through the programs described in Section 52851 shall include, but not be limited to, salaries and staff benefits for persons providing services for those programs.

The schoolsite council shall annually review the school plan, establish a new budget, and if necessary, make other modifications in the plan to reflect changing needs and priorities.

CHAPTER 252

An act to amend and repeal Section 14026.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 14026.5 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 840 of the Statutes of 1987, is amended to read:

14026.5. (a) The State Director of Health Services may issue Medi-Cal cards to Medi-Cal fraud investigators for the purpose of conducting investigations of Medi-Cal fraud, or a violation of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code upon written request to the State Director of Health Services, or his or her designee, from the head of the requesting agency stating the purpose of the investigation. The request shall be based upon a specific complaint or information alleging Medi-Cal fraud. The request shall be based upon a specific complaint or information from an outside agency pursuant to its standard procedure for referring cases to another agency where there is suspicion of Medi-Cal fraud.

(b) (1) Upon a complaint by any individual alleging information creating a reasonable suspicion that any person is engaging in Medi-Cal fraud, the State Director of Health Services shall issue Medi-Cal cards for the purpose of conducting investigations of Medi-Cal fraud, or a violation of the Medical Practice Act as set forth in Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, upon an order of a magistrate issued

upon a showing of reasonable suspicion that the person being investigated has committed or is committing Medi-Cal fraud or a violation of the Medical Practice Act as set forth in Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(2) For purposes of this section, "reasonable suspicion" means that a peace officer subjectively entertains such a suspicion and that it is objectively reasonable for him or her to do so. The facts shall be those which would cause any reasonable peace officer in a like position drawing when appropriate on his or her training and experience, to suspect the same criminal activity and the same involvement by the person in question. A showing of reasonable suspicion may be made either by written statement under penalty of perjury or by oral statement taken under oath, recorded and transcribed.

(c) Nothing in this section shall be construed to mean that it is the exclusive method for conducting investigations for Medi-Cal fraud or for violations of the Medical Practice Act as set forth at Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(d) The State Department of Health Services shall report to the Legislature every six months commencing June 1, 1981, on the utilization of Medi-Cal cards issued pursuant to this section. The report shall include, among other matters, a description of the types of criminal investigations conducted pursuant thereto.

(e) The Legislative Analyst shall report to the Legislature by January 1, 1991, on the utilization of Medi-Cal cards issued pursuant to this section.

SEC. 2. Section 14026.5 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 840 of the Statutes of 1987, is repealed.

CHAPTER 253

An act to amend Section 4132.5 of the Business and Professions Code, relating to medical device retailers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 4132.5 of the Business and Professions Code is amended to read:

4132.5. (a) Except as provided in subdivision (b), each retailer shall comply with this article on or before July 1, 1991.

(b) Home health agencies licensed under Chapter 8

(commencing with Section 1725) of Division 2 of the Health and Safety Code and hospices licensed under Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code are exempt from the requirement to comply with this article until July 1, 1992. During the one-year period of exemption, the Board of Pharmacy, licensed home health agencies, and licensed hospices shall work together to develop language for legislation regarding the handling of dangerous devices by home health agencies and hospices that proposes safeguards necessary to protect the public health and that is least restrictive on the functioning of home health agencies and hospices.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that necessary services provided to patients of home health agencies and hospices are not interrupted, it is necessary for this act to take effect immediately.

CHAPTER 254

An act to amend Section 10123.18 of the Insurance Code, relating to insurance.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 10123.18 of the Insurance Code is amended to read:

10123.18. Every individual or group policy of disability insurance, regardless of the situs of the contract, which is issued, amended, or renewed, on or after January 1, 1991, and which includes coverage for treatment or surgery of cervical cancer shall also be deemed to provide coverage, upon the referral of a patient's physician, a nurse practitioner, or a certified nurse midwife, providing care to the patient and operating within the scope of practice otherwise permitted for the licensee, for an annual cervical cancer screening test.

Nothing in this section shall be construed to require an individual or group policy to cover treatment or surgery for cervical cancer 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 apply to a policy of disability insurance that only covers a specified disease, specified

accidents, or any accidents, if the disability insurer at the time of issuance of the policy and annually thereafter determines whether each insured or person covered by the policy also has coverage for an annual cervical cancer screening test from another disability insurer, a nonprofit hospital service plan, or a health care service plan, and provided that any insured or person covered by the policy who does not have other coverage for annual cervical cancer screening shall have that coverage under the policy.

CHAPTER 255

An act to amend Sections 5784 and 6005 of the Food and Agricultural Code, relating to pest control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 5784 of the Food and Agricultural Code is amended to read:

5784. (a) The regulations adopted by the director upon the establishment of a cotton host-free period or district for a particular pest shall, insofar as practical, be uniform and shall be uniformly enforced in all cotton host-free periods or districts established for that pest. Any exemptions or variances thereafter shall be extended to all other districts or periods unless the director finds that it will be detrimental to the eradication or effective control of the particular pest to do so.

(b) The remedies provided in this article for any violation of this article are in addition to any other remedy provided by law.

(c) Any person producing cotton in violation of cotton plowdown requirements adopted pursuant to this article is subject to a civil penalty of five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent violation. Each acre not in compliance is a separate additional violation subject to a civil penalty of five dollars ($5) per acre of land not in compliance for the first violation and ten dollars ($10) per acre of land not in compliance for each subsequent violation.

(d) Any person producing cotton in violation of cotton planting dates adopted pursuant to this article is subject to a civil penalty of five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent violation. Each acre not in compliance is a separate additional violation subject to a civil fine of fifty dollars ($50) per acre of land not in compliance for the first violation and one hundred dollars ($100) per acre of land not in

compliance for each subsequent violation.

(e) The Attorney General, upon the request of the director, or the district attorney or county counsel, upon the request of the commissioner, may request a court to issue an injunction or take other appropriate action to restrain violations of this article relating to cotton pests.

SEC. 2. Section 6005 of the Food and Agricultural Code is amended to read:

6005. (a) Every grower of cotton in the state shall pay a fee of three dollars ($3) for each bale of cotton ginned or for each bale of cotton sold by a grower in this state who received the cotton under the federal payment-in-kind program, Section 700 et seq. of Title 7 of the Code of Federal Regulations.

(b) The fee is a maximum fee. The amount of the fee may vary from district to district in accordance with the protection afforded to the cotton crop in the districts. The director may establish districts in the state for the purpose of fixing the fee. Between February 1 and June 30 of each year, the Cotton Pest Control Board shall recommend to the director the amount of the fee that it determines to be necessary to carry out this article in each district. The director may fix the fee at a less amount, when it is determined that the cost of administering this article can be defrayed with the below-maximum fee. The amount of the fee shall be effective for the next fiscal year. The fee shall be paid to the director or the entity designated by the Cotton Pest Control Board at the time the cotton is ginned or by the first handler when the cotton is sold in the case of cotton received by growers under the federal payment-in-kind program, Section 700 et seq. of Title 7 of the Code of Federal Regulations. The first handler shall deduct the fee from any moneys owed to the grower. To determine the number of payment-in-kind bales on which the fee is calculated that the first handler pays to the director, the first handler shall divide each grower's total payment-in-kind entitlement pounds of cotton by 500.

(c) The amount received from fees and other sources of income shall be deposited and handled in a manner determined by the Cotton Pest Control Board and shall be used exclusively to pay costs directly related to the control of pink bollworm or other related cotton pests.

(d) Fees which have not been expended by the termination date of this article shall be refunded.

(e) Moneys received from other sources for this program may be used to carry out the purposes of this article.

(f) The Cotton Pest Control Board may hire any and all necessary personnel, contract for services, and incur all other expenses necessary to carry out the purposes of this article.

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 up for expected losses in assessment revenues resulting from severe drought conditions which have led to a decrease in cotton production, and address the infestation of the pink bollworm in the lower San Joaquin Valley, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 256

An act to amend Section 44929.23 of, and to add Section 44948.2 to, the Education Code, relating to certificated employees.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 44929.23 of the Education Code is amended to read:

44929.23. (a) The governing board of a school district of any type or class having an average daily attendance of less than 250 pupils may classify as a permanent employee of the district any employee, who, after having been employed by the school district for three complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications. If that classification is not made, the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made.

(b) Notwithstanding subdivision (a), the governing board of a school district which elects to dismiss probationary employees pursuant to Section 44948.2, shall classify as a permanent employee of the district any probationary employee, who, after being employed for two complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications. Any probationary employee who has been employed by the district for two or more consecutive years on the date of that election in a position or positions requiring certification qualifications shall be classified as a permanent employee of the district.

(c) If the classification is not made pursuant to subdivision (a) or (b) the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until the classification is made.

SEC. 2. Section 44948.2 is added to the Education Code, to read:

44948.2. Notwithstanding subdivision (a) of Section 44948 and subdivision (c) of Section 44948.3, the governing board of any school

district having an average daily attendance of less than 250 may elect to dismiss probationary employees during the school year pursuant to the provisions of Section 44948.3. Once a district has made an election pursuant to this section, it shall only dismiss probationary certificated employees during the school year pursuant to this section.

CHAPTER 257

An act to amend Section 11350 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), 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), (c), or (g) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

(b) Except as otherwise provided in this division, every person who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

(c) Except as otherwise provided in this division, whenever a person who possesses any of the controlled substances specified in subdivision (a) or (b), the judge may, in addition to any punishment provided for pursuant to subdivision (a) or (b), assess against that person a fine not to exceed seventy dollars ($70) with proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(d) Except in unusual cases in which it would not serve the interest of justice to do so, whenever a court grants probation pursuant to a felony conviction under this section, in addition to any other conditions of probation which may be imposed, the following conditions of probation shall be ordered:

(1) For a first offense under this section, a fine of at least one

thousand dollars ($1,000) or community service.

(2) For a second or subsequent offense under this section, a fine of at least two thousand dollars ($2,000) or community service.

(3) If a defendant does not have the ability to pay the minimum fines specified in paragraphs (1) and (2), community service shall be ordered in lieu of the fine.

CHAPTER 258

An act to amend Sections 7301 and 7310 of the Labor Code, relating to occupational safety and health.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 7301 of the Labor Code is amended to read:

7301. No elevator shall be operated in this state unless a permit for the operation thereof is issued by or in behalf of the division, and unless the permit remains in effect and is kept posted conspicuously in the elevator car. Operation of an elevator without a permit or failure to post the permit conspicuously shall constitute cause for the division to prohibit use of the elevator, unless it can be shown that a request for issuance or renewal of a permit has been made and the request has not been acted upon by the division.

SEC. 2. Section 7310 of the Labor Code is amended to read:

7310. The division may also issue its permit or a permit may be issued in its behalf based upon a certificate of inspection issued by qualified elevator inspectors of any municipality, upon proof to its satisfaction that the safety requirements of such municipality are equal to the minimum safety requirements for elevators adopted by the board.

CHAPTER 259

An act to amend Sections 52551, 52560, and 52570 of the Health and Safety Code, and to amend Section 2 of Chapter 1355 of the Statutes of 1987, relating to housing, and making an appropriation therefor.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 52551 of the Health and Safety Code is amended to read:

52551. (a) (1) The Governor shall appoint, subject to advice and consent of the Senate, five of the incorporators of the corporation from the categories of persons described in paragraphs (1) to (5), inclusive, of subdivision (b). The Senate Rules Committee shall appoint one of the incorporators of the corporation from the category of persons described in paragraph (7) of subdivision (b), and the Speaker of the Assembly shall appoint one of the incorporators of the corporation from the category of persons described in paragraph (8) of subdivision (b).

(2) The incorporators shall serve as the initial board of directors of the corporation. The term of office of three of the incorporators shall be for three years, the term of office of two of the initial incorporators shall be for two years, and the term of office of the remaining two initial incorporators shall be for one year, as determined by lot. The Governor shall appoint one of the eight incorporators to serve as the chairperson of the board of directors. All subsequent appointments to the board of directors, including the appointment of the chairperson, shall be for three-year terms and shall be made by the appointing power described in this subdivision from the categories of persons described in subdivision (b).

(b) The board of directors shall consist of eight members committed to working with nonprofit developers to preserve and expand the state's supply of low-income and very low income housing and experienced in providing low-income and very low income housing through encouraging greater participation by private investors, nonprofit housing corporations, and local and state governments. The board of directors shall be appointed as specified in subdivision (a) from each of the following categories:

(1) An elected or appointed official of a city or county with experience in assisting nonprofit housing developers to provide housing for low-income and very low income households.

(2) A person from the savings and loan, mortgage banking, or commercial banking industry.

(3) A person knowledgeable about tax, securities, and partnership law as they relate to low-income or very low income housing.

(4) A person experienced in developing and implementing plans for the repair and rehabilitation of existing low-income or very low income housing.

(5) A housing consultant experienced in developing and implementing programs utilizing equity capital.

(6) The Director of Housing and Community Development.

(7) A person experienced in the management of rental or cooperative housing occupied by low-income or very low income households.

(8) A person from a nonprofit housing corporation experienced in working with the private sector and public sector to help preserve existing low-income or very low income housing.

(c) The representation of varied interest groups on the board of directors shall be deemed essential to obtain information for the

development of policy and decisions of the board of directors. It shall not be a conflict of interest for individuals from each of the respective categories designated in subdivision (b) to serve as a member of the board of directors. If any board member has a financial interest, as described in Section 87103 of the Government Code, the interest shall be disclosed as a matter of official public record and shall be described with particularity, as determined by the other members of the board of directors. No board member shall make, participate in making, or in anyway attempt to use his or her position to influence, a decision of the board of directors in which he or she knows or has reason to know that he or she has a financial interest.

(d) Any violation of this section by a board member shall constitute grounds for disqualification as a board member.

SEC. 2. Section 52560 of the Health and Safety Code is amended to read:

52560. (a) In order to achieve the objectives and carry out the purposes of this part, the corporation may do all of the following:

(1) Raise equity funds, from corporations or individuals, for housing and related facilities sponsored by nonprofit housing development corporations organized pursuant to state or federal law, primarily for the benefit of very low income or low-income households.

(2) Where no local nonprofit housing development corporation exists, plan, initiate, and carry out the acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities pursuant to state or federal law, primarily for the benefit of very low income households or low-income households, only to the extent necessary to carry out the purposes of this chapter in raising equity capital.

(3) Establish accounts necessary to accomplish the developments or projects described in paragraph (1).

(4) Provide technical assistance to nonprofit corporations, public agencies, and private profit-motivated entities and individuals with respect to housing planning, financing, acquisition, rehabilitation, maintenance, or management to ensure continuation of the existing low-income or very low income housing stock. The corporation may enter into contracts with organizations or individuals receiving technical assistance to provide for payment of services.

(b) In order to carry out the purposes of subdivision (a), the corporation may also do any of the following:

(1) Enter into limited partnerships with private individuals or private or governmental corporations, agencies, organizations, and institutions.

(2) Act as manager or general partner of any such partnership, venture, or association.

(3) Provide technical assistance to nonprofit corporations with respect to the planning, financing, acquisition, rehabilitation, maintenance, or management of low-income or very low income

housing proposed to be supported by the corporation.

(4) Make loans or grants, including grants of interest in housing and related facilities to nonprofit corporations, limited dividend corporations, or other entities for low-income or very low income housing to be supported by the corporation.

(5) Hire staff or hire or accept the voluntary services of consultants, experts, or advisory boards to aid the corporation in carrying out the purposes of this chapter.

(6) Engage in any other activities as may be necessary to carry out the purposes of this section.

(c) In carrying out the purposes and objectives of subdivision (a), the corporation shall do both of the following:

(1) Give priority to those housing developments which are having trouble attracting private capital at reasonable terms and conditions, including inner-city, rural, and small housing developments serving lower income households and very low income households.

(2) Seek to ensure that a maximum number of units shall be made available for occupancy by very low income households.

SEC. 3. Section 52570 of the Health and Safety Code is amended to read:

52570. (a) The corporation shall submit an annual report to the Governor for transmittal to the Legislature, commencing December 31, 1989, and annually thereafter. The report shall include a comprehensive and detailed report of the operations, activities, and financial condition of the corporation and the partnership.

(b) The accounts of the corporation and partnership shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(c) The Department of Housing and Community Development shall review the reports and audits to determine compliance with the terms of any advances made to the corporation pursuant to Section 2 of Chapter 1355 of the Statutes of 1987, as it may from time to time be amended.

SEC. 4. Section 2 of Chapter 1355 of the Statutes of 1987 is amended to read:

Sec. 2. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Homeownership Assistance Fund to the Department of Housing and Community Development for disbursement to the nonprofit corporation established pursuant to Part 6.2 (commencing with Section 52535) of Division 31 of the Health and Safety Code, pursuant to a contract between the department and the nonprofit corporation limiting use of these moneys to the startup and initial operating costs of the corporation.

(b) The moneys appropriated by this section shall be deemed an advance to be fully repaid on or before January 31, 1996. No less than one hundred thousand dollars ($100,000) of this advance shall be repaid on or before January 31, 1994. No less than an additional one hundred thousand dollars ($100,000) of this advance shall be repaid on or before January 31, 1995.

CHAPTER 260

An act to amend Section 186.22a of the Penal Code, relating to firearms.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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 subdivision (a) 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 subdivisions (a) and (b).

(d) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(e) (1) Any firearm, ammunition which may be used with the firearm, or any deadly or dangerous weapon which is owned or possessed by a member of a criminal street gang for the purpose of the commission of any of the offenses listed in subdivision (c) of Section 186.22, or the commission of any burglary or rape, may be confiscated by any law enforcement agency or peace officer.

(2) In those cases where a law enforcement agency believes that the return of the firearm, ammunition, or deadly weapon confiscated pursuant to this subdivision, is or will be used in criminal street gang activity or that the return of the item would be likely to result in

endangering the safety of others, the law enforcement agency shall initiate a petition in the superior court to determine if the item confiscated should be returned or declared a nuisance.

(3) No firearm, ammunition, or deadly weapon shall be sold or destroyed unless reasonable notice is given to its lawful owner if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner, at that person's last known address by registered mail, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing and that the failure to respond shall result in a default order forfeiting the confiscated firearm, ammunition, or deadly weapon as a nuisance.

(4) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing.

(5) At the hearing, the burden of proof is upon the law enforcement agency or peace officer to show by a preponderance of the evidence that the seized item is or will be used in criminal street gang activity or that return of the item would be likely to result in endangering the safety of others. All returns of firearms shall be subject to subdivision (d) of Section 12072.

(6) If the person does not request a hearing within 30 days of the notice or the lawful owner cannot be ascertained, the law enforcement agency may file a petition that the confiscated firearm, ammunition, or deadly weapon be declared a nuisance. If the items are declared to be a nuisance, the law enforcement agency shall dispose of the items as provided in Section 12028.

CHAPTER 261

An act to add Section 4475.1 to the Public Resources Code, relating to fire protection.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 4475.1 is added to the Public Resources Code, to read:

4475.1. The director, with the approval of the Director of General Services, may enter into a master agreement with federal land management agencies to conduct joint prescribed burning operations on wildlands and federal lands where these operations serve the public interest and are beneficial to the state. This master agreement shall be known as the Interagency Agreement for Cooperative Use of Prescribed Fire and shall establish guidelines for

the cooperative management of joint prescribed burning operations. The master agreement shall require the completion of a project agreement for each individual prescribed burn which shall include the following:

(a) A list of all participants.

(b) A joint prescribed burn plan.

(c) A display of the project costs to be assumed by each participant.

(d) A summary of the benefits to be received by each participant.

(e) An apportionment of suppression cost to each participant in the event a wildfire escapes from the project.

Project costs to be assumed by each agency or cooperator shall be based on the benefits received by each participant. The apportionment of suppression cost shall be based on the following:

(1) The benefits received by each participant.

(2) The amount at risk of each participant.

(3) The cost to produce the desired benefits received by each participant.

(4) The total acreage included by each participant.

CHAPTER 262

An act to amend Sections 29504, 29505, 29509, 29531, 29570, and 29571 of, and to add Section 29515.5 to, the Corporations Code, relating to commodities.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 29504 of the Corporations Code is amended to read:

29504. "Commodity" means, except as otherwise specified by the commissioner by rule or order, any agricultural, grain, or livestock product or byproduct, any metal or mineral (including a precious metal set forth in Section 29515), any gem or gemstone (whether characterized as precious, semiprecious, or otherwise), any fuel (whether liquid, gaseous, or otherwise), any foreign currency, and all other goods, articles, products, or items of any kind. However, the term "commodity" shall not include (a) a numismatic coin whose fair market value is at least 15 percent higher than the value of the metal it contains, or (b) any work of art offered or sold by art dealers, at public auction, or through a private sale by the owner of the work of art.

SEC. 2. Section 29505 of the Corporations Code is amended to read:

29505. (a) "Commodity contract" means any account,

agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. A "commodity contract" includes a commodity option as defined in Section 29510, unless otherwise specified. Any "commodity contract" offered or sold shall, in the absence of evidence to the contrary, be presumed to be offered or sold for speculation or investment purposes.

(b) A "commodity contract" shall not include any contract or agreement which requires, and under which the purchaser personally receives, or at the request of the purchaser a family member or an individual (which individual is other than the seller or any affiliate of the seller, including any officer, director, or employee of the seller or any affiliate of the seller) with whom the purchaser has a preexisting close personal or preexisting business relationship personally receives, within 28 calendar days from the full payment in good funds of the purchase price, actual physical delivery of the quantity of each commodity purchased under the contract or agreement. In the case of a seller who requires a partial payment of the total purchase price before obligating itself to actually physically deliver the quantity of each commodity purchased under the contract or agreement described in this subdivision, both the amount remaining on the total purchase price shall be paid in good funds and actual physical delivery of the quantity of each commodity purchased under the contract or agreement shall be personally received (by the purchaser or above-described individual) within 28 calendar days from the date of the partial payment in good funds. Otherwise, for the purposes of this exclusion from the definition of a "commodity contract," a partial payment of, or an installment payment on, the purchase price is not a full payment in good funds of the purchase price.

SEC. 3. Section 29509 of the Corporations Code is amended to read:

29509. "Commodity merchant" means any of the following, as defined or described in the Commodity Exchange Act or by CFTC Rule:

(a) Futures commission merchant.

(b) Commodity pool operator.

(c) Commodity trading advisor.

(d) Introducing broker.

(e) Leverage transaction merchant.

(f) An associated person of any person specified in subdivisions (a) to (d), inclusive.

(g) Floor broker.

(h) Any other person (other than a futures association) required

to register with the Commodity Futures Trading Commission.

SEC. 4. Section 29515.5 is added to the Corporations Code, to read:

29515.5. "Purchase price" means all funds paid by or on behalf of a purchaser to a seller of a commodity contract or a commodity option (or to another person at the request or direction of a seller), including, but not limited to, the sale price of a commodity, an administrative charge or fee, assessment, deposit, dues, handling charge or fee, holding charge or fee, membership charge or fee, reservation charge or fee, or any charge, fee, or other payment made or paid in connection with the sale of a commodity contract or a commodity option.

SEC. 5. Section 29531 of the Corporations Code is amended to read:

29531. The prohibitions in Section 29520 shall not apply to the following:

(a) An account, agreement, or transaction within the exclusive regulatory jurisdiction of the Commodity Futures Trading Commission as granted under Section 2 of Title 42 of the United States Code (Section 2(a) (1) (A) of the Commodity Exchange Act).

(b) A commodity contract for the purchase of one or more precious metals or foreign currencies which requires full payment in good funds of the purchase price and under which the purchaser receives, within 28 calendar days from the full payment in good funds of the purchase price, substitute delivery of the quantity of the precious metals or foreign currencies purchased, or a commodity contract for the purchase of one or more precious metals or foreign currencies which allows partial payment in good funds of the purchase price and under which the purchaser receives within 28 calendar days from the partial payment in good funds of the purchase price, substitute delivery of the quantity of precious metals or foreign currencies purchased by that payment; provided that, for purposes of this subdivision, substitute delivery shall be deemed to have occurred if, within the 28-day period, the quantity of precious metals or foreign currencies purchased by the full or partial payment is actually physically delivered (whether in specifically segregated or fungible bulk form) into the possession of a depository (other than the seller) which is either (1) a financial institution, (2) a depository, the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the Commodity Futures Trading Commission, (3) a storage facility licensed or regulated by the United States or any agency thereof, or (4) a facility for the storage of precious metals or foreign currencies located within a state of the United States and operated by an armored contract carrier defined under subdivision (e), or (5) a depository designated by the commissioner. The depository (or other person which itself qualifies as a depository) enumerated in this subdivision shall issue and the purchaser shall receive a certificate, document of title, confirmation or other instrument

evidencing that the quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser.

(c) A commodity contract solely between persons engaged in producing, processing, using commercially or handling as merchants, each commodity subject thereto, or any byproduct thereof.

(d) A commodity contract under which the offeree or the purchaser is a person referred to in Section 29530, an insurance company, or an investment company as defined in Section 80a-3 of Title 15 of the United States Code (Section 3 of Title I of the federal Investment Company Act of 1940).

(e) For the purposes of this section, "armored contract carrier" means a person who: (1) is operating as a carrier transporting coin, currency, precious metals, securities, or negotiable items pursuant to a currently effective permit as a highway contract carrier and a city carrier issued by the Public Utilities Commission of this state and is also operating a facility for the storage of precious metals or foreign currencies pursuant to a commodity contract; (2) has purchased and maintains sufficient amounts of insurance coverage for all risks associated with the operation of a facility for the storage of precious metals or foreign currencies from an insurance company admitted in this state; (3) has continuously operated as a carrier under its permit and has continuously operated a facility for the storage of precious metals or foreign currencies for at least five years; (4) has a tangible net worth of at least five million dollars ($5,000,000) for each of the immediately preceding five fiscal years according to its financial statements prepared on an individual company basis, or on a combining or consolidating basis with any affiliates, which financial statements have been audited by an independent certified public accountant; and (5) provides the following disclosure to a purchaser in 10-point boldface type with the certificate, document of title, confirmation, or other instrument evidencing that the purchased quantity of precious metals or foreign currencies has been delivered to or is on deposit with the storage facility: "(Name of carrier) is not licensed, regulated, or supervised as a depository or storage facility by the United States Government or the State of California."

SEC. 6. Section 29570 of the Corporations Code is amended to read:

29570. (a) The commissioner shall maintain a list of all commodity merchants who are transacting business in this state. Accordingly, each commodity merchant who is transacting business in this state shall by January 15 of each year: (1) file a notice of transacting business in this state with and in the form prescribed by the commissioner; and (2) pay a fee fixed by the commissioner of not more than three hundred fifty dollars ($350) for each office with an address in this state, or if no offices have an address in this state, then

a fee of not more than three hundred fifty dollars ($350). As used in subdivisions (a) and (c) of this section, "commodity merchant" means: a person as defined by Section 29509 (other than an associated person as defined by subdivision (f) of Section 29509); a person who meets the requirements of paragraph (6) of subdivision (a) of Section 29530; or a person who is a seller of a commodity contract (other than a person who meets the requirements of paragraph (19) of subdivision (d) of Section 17511.1 of the Business and Professions Code, or who is an employee, officer, or director of a seller when acting solely in that capacity), which contract meets the requirements of subdivision (b) of Section 29531. The maximum fee to be paid under this subdivision by a commodity merchant is three thousand five hundred dollars ($3,500). As used in this section, a commodity merchant is "transacting business in this state" if subject to Section 29520 or exempt from Section 29520 by virtue of Section 29530, 29531, or 29532.

(b) Sections 29536, 29540, 29541, 29542, 29543, 29544, 29550, and 29552 do not apply to a commodity merchant as defined by Section 29509 whose only violation of this law is a failure to file the notice or pay the fee required by subdivision (a).

(c) The commissioner shall be entitled to recover the costs of collection of the fee under subdivision (a), including reasonable attorney's fees, for a failure of a commodity merchant to file the notice and pay the fee under subdivision (a).

SEC. 7. Section 29571 of the Corporations Code is amended to read:

29571. (a) Each person who is a telephonic seller of a commodity or a commodity contract shall by January 15 of each year: (1) file a notice with and in the form prescribed by the commissioner; and (2) pay a fee fixed by the commissioner of not more than three hundred fifty dollars ($350) for each office with an address in this state up to a maximum fee of three thousand five hundred dollars ($3,500), or if no offices have an address in this state, a fee of not more than three hundred fifty dollars ($350).

(b) As used in this section, a "telephonic seller of a commodity or a commodity contract" or "seller" is a person who: (1) is subject to the jurisdiction of this law under Section 29520 and not exempt from the application of Section 29520 by virtue of Section 29530, 29531, or 29532; and (2) directly or indirectly, or through others, by use of telephone or telephone transceiving equipment, or through the use of an automatic dial-announcing device as defined in Section 2871 of the Public Utilities Code, sells or offers to sell or purchase any commodity under any commodity contract or under any commodity option, or enters into, or offers to enter into, as a seller or purchaser, any commodity contract or any commodity option.

(c) A seller who fails to file the notice and pay the fee as required by this section shall pay a penalty of twenty thousand dollars ($20,000). In addition to the other powers and remedies available to the commissioner, the commissioner shall be awarded costs and

reasonable attorney's fees if the commissioner prevails in an action to collect the fee and penalty under this section.

(d) For purposes of this section, a "telephonic seller of a commodity or a commodity contract" or "seller" does not include any of the following:

(1) A person who is a commodity merchant as defined by subdivision (a) of Section 29570 who files the notice and pays the fee under Section 29570.

(2) A person offering or selling a security qualified under Section 25110, 25120, or 25130 or exempt from qualification under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 when the solicited transaction is governed by that law. The fact that a notice claiming an exemption under the Corporate Securities Law of 1968 is filed with the Department of Corporations does not create an exemption under this paragraph.

(3) A person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code when the solicited transaction is governed by that law.

(4) A person licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code when the solicited transaction is governed by that law.

(5) A person licensed or certificated pursuant to Part 2 (commencing with Section 680) of Division 1 of the Insurance Code, including a person licensed pursuant to Chapter 5 (commencing with Section 1621) thereof, when the solicited transaction is governed by that law.

(6) A person offering or selling a franchise registered pursuant to Section 31110 or exempt from registration under Chapter 1 (commencing with Section 31100) of Part 2 of Division 5 of Title 4 when the solicited transaction is governed by that law. The fact that a notice claiming an exemption under the Franchise Investment Law is filed with the Department of Corporations does not create an exemption under this paragraph.

(7) A person soliciting the sale of a seller assisted marketing plan, as defined in Title 2.7 (commencing with Section 1812.200) of Part 4 of Division 3 of the Civil Code, who has filed with the Secretary of State or other designated official the documents required by Section 1812.203 of the Civil Code.

(8) A person primarily soliciting the sale of a newspaper of general circulation, as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code, a magazine, or membership in a book or record club whose program operates in conformity with the requirements of Section 1584.5 of the Civil Code.

(9) Any supervised financial institution or parent, subsidiary, or affiliate thereof. As used in this paragraph, "supervised financial institution" means any commercial bank, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance

lender, or insurer, provided that the institution is subject to supervision by an official or agency of this state or of the United States.

(10) A person soliciting the sale of a preneed funeral arrangement regulated by Article 9 (commencing with Section 7735) of Chapter 12 of Division 3 of the Business and Professions Code.

(11) A person licensed pursuant to Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code when acting pursuant to that licensure.

(12) A person soliciting the sale of services provided by a cable television system licensed or franchised pursuant to Section 53066 of the Government Code or any other authority.

(13) A person or an affiliate of a person whose business is regulated by the Public Utilities Commission.

(14) A person soliciting the sale of a commodity pursuant to Part 2 (commencing with Section 58601) of Division 21 of the Food and Agricultural Code, if the solicitation neither intends to, nor actually results in, a sale which costs the purchaser in excess of one hundred dollars ($100).

(15) An issuer or subsidiary of an issuer that has a class of securities which is subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. Sec. 78*l*) and which is either registered or exempt from registration under subparagraph (A), (B), (C), (E), (F), (G), or (H) of paragraph (2) of subdivision (9) of that section.

(16) A person soliciting exclusively the sale of telephone answering services to be provided by that person or that person's employer.

(17) A person soliciting a transaction regulated by the Commodity Futures Trading Commission if the person is registered or temporarily licensed for this activity with the Commodity Futures Trading Commission under the Commodity Exchange Act, (7 U.S.C. Sec. 1 et seq.) and the registration or license has not expired or been suspended or revoked.

(18) A person who sells coins or bullion at a price which is not more than 25 percent more than the price at which the seller is concurrently buying the same coins or bullion, if: (A) the seller has had a retail location in California from which he or she has been selling coins or bullion to the public in person for at least three years; (B) the telephonic solicitations are not the person's primary business and sales made telephonically makeup less than 20 percent of the person's total retail sales; and (C) the person claiming an exemption pursuant to this subdivision complies with Section 17511.3 of the Business and Professions Code, as applicable, and subdivision (p) of Section 17511.4 of the Business and Professions Code.

(19) A person licensed pursuant to Chapter 14 (commencing with Section 1800) of Division 1 of the Financial Code to receive money for transmittal to foreign countries if the license has not expired or been suspended or revoked when the solicited transaction is governed by that law.

CHAPTER 263

An act to amend Sections 10249.4 and 11010 of the Business and Professions Code, and to amend Section 1351 of the Civil Code, relating to real estate.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 10249.4 of the Business and Professions Code is amended to read:

10249.4. When an inspection is to be made of subdivided lands situated outside of the State of California which are to be offered for sale or lease in this state, the questionnaire shall be accompanied by the filing fee, together with an amount equivalent to the maximum reimbursement rate authorized for an employee of the state using a privately owned automobile on official state business, for each mile going and returning, or where public transportation is available the actual round trip fare pertaining thereto, estimated by the commissioner to be traveled from the office of the Department of Real Estate where the filing is made to the location of the project, and an amount estimated to be necessary to cover the actual and necessary subsistence expenses incurred in the inspection.

SEC. 2. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or

occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report immediately shall provide the department with the name, address, and telephone number of that district.

(12) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.

(13) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(14) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(15) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

SEC. 3. Section 1351 of the Civil Code is amended to read:

1351. As used in this title, the following terms have the following

meanings:

(a) "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

(b) "Common area" means the entire common interest development except the separate interests therein. The estate in the common area may be a fee, a life estate, an estate for years, or any combination of the foregoing. However, the common area for a planned development specified in paragraph (2) of subdivision (k) may consist of mutual or reciprocal easement rights appurtenant to the separate interests.

(c) "Common interest development" means any of the following:

(1) A community apartment project.

(2) A condominium project.

(3) A planned development.

(4) A stock cooperative.

(d) "Community apartment project" means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.

(e) "Condominium plan" means a plan consisting of (1) a description or survey map of a condominium project, which shall refer to or show monumentation on the ground, (2) a three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the common areas and each separate interest, and (3) a certificate consenting to the recordation of the condominium plan pursuant to this title signed and acknowledged by the record owner of fee title to that property included in the condominium project. In the case of a condominium project which will terminate upon the termination of an estate for years, the certificate shall be signed and acknowledged by all lessors and lessees of the estate for years and, in the case of a condominium project subject to a life estate, the certificate shall be signed and acknowledged by all life tenants and remainder interests. The certificate shall also be signed and acknowledged by either the trustee or the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage encumbering the property. Owners of mineral rights, easements, rights-of-way, and other nonpossessory interests do not need to sign the condominium plan. A condominium plan may be amended or revoked by a subsequently acknowledged recorded instrument executed by all the persons whose signatures would be required to record a condominium plan pursuant to this subdivision.

(f) A "condominium project" means a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within

these boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit may refer to (1) boundaries described in the recorded final map, parcel map, or condominium plan, (2) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof, (3) an entire structure containing one or more units, or (4) any combination thereof. The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. An individual condominium within a condominium project may include, in addition, a separate interest in other portions of the real property.

(g) "Declarant" means the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the person or group of persons who sign the original declaration or who succeed to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration.

(h) "Declaration" means the document, however denominated, which contains the information required by Section 1353.

(i) "Exclusive use common area" means a portion of the common areas designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests.

(1) Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, door frames, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common areas allocated exclusively to that separate interest.

(2) Notwithstanding the provisions of the declaration, internal and external telephone wiring designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common areas allocated exclusively to that separate interest.

(j) "Governing documents" means the declaration and any other documents, such as bylaws, operating rules of the association, articles of incorporation, or articles of association, which govern the operation of the common interest development or association.

(k) "Planned development" means a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:

(1) The common area is owned either by an the association or in

common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment which may become a lien upon the separate interests in accordance with Section 1367.

(*l*) "Separate interest" has the following meanings:

(1) In a community apartment project, "separate interest" means the exclusive right to occupy an apartment, as specified in subdivision (d).

(2) In a condominium project, "separate interest" means an individual unit, as specified in subdivision (f).

(3) In a planned development, "separate interest" means a separately owned lot, parcel, area, or space.

(4) In a stock cooperative, "separate interest" means the exclusive right to occupy a portion of the real property, as specified in subdivision (m).

Unless the declaration or condominium plan, if any exists, otherwise provides, if walls, floors, or ceilings are designated as boundaries of a separate interest, the interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the separate interest are part of the separate interest and any other portions of the walls, floors, or ceilings are part of the common areas.

The estate in a separate interest may be a fee, a life estate, an estate for years, or any combination of the foregoing.

(m) "Stock cooperative" means a development in which a corporation is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. The owners' interest in the corporation, whether evidenced by a share of stock, a certificate of membership, or otherwise, shall be deemed to be an interest in a common interest development and a real estate development for purposes of subdivision (f) of Section 25100 of the Corporations Code.

A "stock cooperative" includes a limited equity housing cooperative which is a stock cooperative that meets the criteria of Section 33007.5 of the Health and Safety Code.

CHAPTER 264

An act to add Section 14672.96 to the Government Code, relating to state lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 14672.96 is added to the Government Code, to read:

14672.96. (a) Notwithstanding Section 14670, or any other provision of law, the Director of General Services, with the consent of the Department of Corrections, may lease to the United States Postal Service for a term of 25 years and for the consideration specified in subdivision (b), real property not to exceed five acres, located upon and within the grounds of the California Institution for Men at Chino. The Department of Corrections shall allow to designated United States Postal Service employees access to the firearms range located on that property for weapons qualifications.

(b) The United States Postal Service, in consideration for the lease of property and access by postal workers permitted by this section, shall cause to be designed and constructed a 2,000 square foot multipurpose building on the property, as well as a 15-lane extension of the existing firing range. The United States Postal Service shall be responsible for all costs associated with the design, development, and construction of the lease site, building, and firearms range. Upon expiration of the lease agreement, ownership of any and all capital improvements shall vest in the State of California.

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 state and the United States Postal Service to make use of allocated federal funds for the project described in Section 1 of this act before that allocation expires on August 1, 1991, it is necessary that this act go into immediate effect.

CHAPTER 265

An act to amend Section 831.5 of the Penal Code, relating to correctional facilities.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 831.5 of the Penal Code is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, or a county having a population of 425,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of custodial officer may include the serving of warrants, court orders, writs and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within 180 days following the date of the initial assignment as a custodial officer, satisfactorily complete the jail operations course prescribed by the Board of Corrections pursuant to Section 6030. Persons designated as custodial officers, before the expiration of the 90- and 180-day periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there

shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

CHAPTER 266

An act relating to reimbursement of state-mandated costs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. The sum of fifty-five million, one hundred twenty-seven thousand seventy dollars ($55,127,070) is hereby appropriated to the Controller for the payment of claims for reimbursement of state-mandated costs, according to the following schedule:

(a) Fifty-two million one hundred ninety-two thousand five hundred eighty-two dollars ($52,192,582) from the General Fund, to be allocated as follows:

(1) Thirty-five million four hundred ninety-three thousand three hundred forty-four dollars ($35,493,344) for reimbursement of claims from school districts and community college districts, to be allocated as follows:

(A) Sixteen million six hundred sixty-two thousand dollars ($16,662,000) for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Chapter 1107, Statutes of 1984 (Removal of Chemicals), for the 1984–85, 1985–86, 1986–87, 1987–88, 1988–89, 1989–90, 1990–91, and 1991–92 fiscal years.

(B) Two million one hundred thousand dollars ($2,100,000) for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Chapter 1376, Statutes of 1987 (Credential Monitoring), for the 1987–88, 1988–89, 1989–90, 1990–91, and 1991–92 fiscal years. Prior to the disbursement of any

funds provided for Chapter 1376, Statutes of 1987 (Credential Monitoring), the Commission on State Mandates shall amend the parameters and guidelines to specify that, (i) recurring costs shall be reimbursable only for the time periods for which the provisions of Chapter 1376, Statutes of 1987 are operative, as specified in Sections 44258.5 and 44258.9 of the Education Code, and (ii) districts filing for the reimbursement shall document the various usages, including time allocations, of any computer systems for which costs are claimed and only the proportional costs associated with the requirements of Chapter 1376, Statutes of 1987 shall be reimbursable.

(C) Sixteen million seven hundred thirty-one thousand three hundred forty-four dollars ($16,731,344) to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(2) Sixteen million six hundred ninety-nine thousand two hundred thirty-eight dollars ($16,699,238) for the payment of claims of other local governmental entities, as specified, to be allocated as follows:

(A) Nine million nine hundred thirty-six thousand seven hundred eleven dollars ($9,936,711) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 980, Statutes of 1984 (Court Audits and Proration of Fines), for the 1987–88, 1988–89, 1989–90, 1990–91, and 1991–92 fiscal years.

Prior to the disbursement of any funds provided for Chapter 980, Statutes of 1984, the parameters and guidelines for this program shall be amended to specify that costs of court operations related to proration of fines incurred after January 1, 1989, are not reimbursable for counties participating in the Trial Court Funding Program. The Controller shall prepare and submit the proposed parameter and guideline amendments to the Commission on State Mandates.

(B) Eight hundred sixty-two thousand four hundred fifty-seven dollars ($862,457) for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1327 of the Statutes of 1984 and Chapter 1286 of the Statutes of 1985 (Short-Doyle Targeted Supplement Fund), for the 1987–88, 1988–89, and 1990–91 fiscal years.

(C) Two million five hundred eighty-one thousand six hundred seven dollars ($2,581,607) for the payment of claims of counties for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1393 of the Statutes of 1978, Chapter 328 of the Statutes of 1982, Chapter 1594 of the Statutes of 1982, and Chapter 1327 of the Statutes of 1984 (Mental Health Quality Assurance), for the 1987–88, 1988–89, 1989–90, and 1990–91 fiscal years. No claims shall be reimbursed for quality assurance activities related to Short-Doyle/Medi-Cal activities, unless county costs for those activities are not covered by Short-Doyle/Medi-Cal rates.

(D) One million one hundred twenty thousand dollars ($1,120,000) for the payment of claims of counties seeking

reimbursable state-mandated costs incurred pursuant to Chapter 1422, Statutes of 1982 (Permanent Absent Voters), for the 1988–89, 1989–90, 1990–91, and 1991–92 fiscal years.

(E) Two million one hundred ninety-eight thousand four hundred sixty-three dollars ($2,198,463) to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(b) One thousand dollars ($1,000) from the State Mandates Claims Fund for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1286 of the Statutes of 1985 (Homeless Mentally ill), for the 1987–88, 1988–89, 1989–90, 1990–91, and 1991–92 fiscal years.

(c) One million thirty-three thousand four hundred eighty-eight dollars ($1,033,488) from the Restitution Fund to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated programs.

(d) One million nine hundred thousand dollars ($1,900,000) from the Teacher Credentials Fund for the payment of claims of school districts seeking reimbursable state-mandated costs incurred pursuant to Chapter 1376, Statutes of 1987 (Credential Monitoring), for the 1987–88, 1988–89, 1989–90, 1990–91, and 1991–92 fiscal years. Prior to the disbursement of any funds provided for Chapter 1376, Statutes of 1987 (Credential Monitoring), the Commission on State Mandates shall amend the parameters and guidelines to specify that, (i) recurring costs shall be reimbursable only for the time periods for which the provisions of Chapter 1376, Statutes of 1987, are operative, as specified in Sections 44258.5 and 44258.9 of the Education Code, and (ii) districts filing for the reimbursement shall document the various usages, including time allocations, of any computer systems for which costs are claimed and only the proportional costs associated with the requirements of Chapter 1376, Statutes of 1987, shall be reimbursable.

(e) 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.

(f) The amounts appropriated in subparagraph (B) of paragraph (1) of subdivision (a) and the amounts appropriated in subdivision (d) may be used to reimburse costs incurred in any of the fiscal years listed therein; provided, that none of the amounts appropriated in subparagraph (B) of paragraph (1) of subdivision (a) may be so used until all of the funds in subdivision (d) have been so used.

(g) If any of the scheduled amounts in subdivisions (a) and (c) is 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. 2. In addition to statutes identified by the Legislature pursuant to the procedure specified in Section 17581 of the Government Code, and notwithstanding any other provision of law, no local agency shall be required to implement or give effect during the 1991–92 fiscal year to any of the following statutes:

(a) Chapter 1327 of the Statutes of 1984, and Chapter 1286 of the Statutes of 1985 (Short-Doyle Targeted Supplemental Fund).

(b) Chapter 1393 of the Statutes of 1978, Chapter 328 of the Statutes of 1982, Chapter 1594 of the Statutes of 1982, and Chapter 1327 of the Statutes of 1984 (Mental Health Quality Assurance).

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 settle local government claims against the state for mandated costs and end hardship to local governments, it is necessary for this act to take effect immediately.

CHAPTER 267

An act to amend Sections 66905.2, 66905.9, 66906.2, 66906.4, 66906.7, 66907.7, 66907.8, 66907.9, 66907.10, 66907.11, and 66909.5 of the Government Code, and to amend Sections 33701 and 33803 of the Public Resources Code, relating to natural resources.

[Approved by Governor July 29, 1991 Filed with Secretary of State July 29, 1991]

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

SECTION 1. Section 66905.2 of the Government Code is amended to read:

66905.2. It is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its manmade environment, to protect the natural environment, including water quality, air quality, wildlife, and habitat areas, to acquire, restore, and manage property, and to preserve the scenic beauty and recreational opportunities of the region. It is recognized that for the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established a governmental agency with power to acquire , hold, and manage property in the Tahoe region.

SEC. 2. Section 66905.9 of the Government Code is amended to

read:

66905.9. "Nonprofit organization" means any private, nonprofit organization which qualifies for exempt status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, and has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities, or protection of the natural environment or preservation or enhancement of wildlife.

SEC. 3. Section 66906.2 of the Government Code is amended to read:

66906.2. The members of the conservancy appointed under subdivisions (a), (b), (c), (e), and (f) of Section 66906.1 shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day, and all members of the conservancy shall be reimbursed the actual amounts of the reasonable and necessary expenditures incurred in attending meetings of the conservancy and carrying out the duties of their office.

SEC. 4. Section 66906.4 of the Government Code is amended to read:

66906.4. A majority of the total voting membership of the governing body shall constitute a quorum for the transaction of the business of the conservancy. Provided that a quorum exists, a majority vote of the members present shall be binding on all matters, except a request to the State Public Works Board to exercise the power of eminent domain pursuant to Section 66907.5 which shall require five affirmative votes. The governing body shall adopt its own rules, regulations, and procedures.

The limitations on voting by designees of voting members in Section 7.5 shall not apply to this title.

SEC. 5. Section 66906.7 of the Government Code is amended to read:

66906.7. The conservancy's expenses may be paid out of any conservancy funds, including funds acquired through monetary gifts and from the lease or rental of conservancy property. Not more than 10 percent of the funds thus acquired shall be available for expenditure for staff services.

SEC. 6. Section 66907.7 of the Government Code is amended to read:

66907.7. (a) The conservancy may award grants to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this title.

(b) Grants to nonprofit organizations for the acquisition of real property or interests therein shall be subject to all of the following conditions:

(1) The purchase price of any interest in land acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the conservancy.

(2) The conservancy approves the terms under which the interest

in land is acquired.

(3) The interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt to be incurred by the nonprofit organization unless the conservancy approves the transaction.

(4) The transfer of land acquired pursuant to a grant shall be subject to the approval of the conservancy and the execution of an agreement between the conservancy and the transferee sufficient to protect the interest of the people of California .

(5) The state shall have a right of entry and power of termination in and over all interests in real property acquired with state funds, which may be exercised if any essential term or condition of the grant is violated.

(6) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state , except that, prior to that termination, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property, by recording its acceptance of title, together with the conservancy's approval, in writing.

Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the state.

SEC. 7. Section 66907.8 of the Government Code is amended to read:

66907.8. Notwithstanding any other provisions of law, the conservancy may lease, rent, sell, exchange, or otherwise transfer any real property or interest therein, or option acquired under this title to local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, corporate entities, or partnerships for management purposes pursuant to terms and conditions approved by the conservancy. The conservancy may request the Director of General Services to undertake these actions on its behalf.

SEC. 8. Section 66907.9 of the Government Code is amended to read:

66907.9. The conservancy may initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, corporate entities, or partnerships, and to enter into any other agreements authorized by state or federal law.

SEC. 9. Section 66907.10 of the Government Code is amended to read:

66907.10. The conservancy may improve and develop lands for the purpose of protecting the natural environment or otherwise meeting the objectives of this title. The conservancy may not develop and may not enter into any contract or agreement which

would result in the development of any land under its ownership or control, except in conformance with a basinwide management plan.

SEC. 10. Section 66907.11 of the Government Code is amended to read:

66907.11. The conservancy may merge or split parcels, adjust boundary lines, or take similar actions as part of the acquisition of land or as needed in order to facilitate the management of land.

SEC. 11. Section 66909.5 of the Government Code is amended to read:

66909.5. (a) 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 chaptered before January 1, 1996, deletes or extends that date.

(b) On or before January 1, 1995, the conservancy shall report to the Legislature, with respect to any property which is subject to the immunity provided by this chapter, the following:

(1) The nature and extent of any injury sustained by any person on that property since September 17, 1984.

(2) Any personal injury or wrongful death litigation brought by, on behalf of, or against, any public entity since September 17, 1984, arising from occurrences on that property.

SEC. 12. Section 33701 of the Public Resources Code is amended to read:

33701. (a) The conservancy may acquire any uninhabited real property within its territory containing mountainous lands by eminent domain after providing at least 60 days' notice to the city in which the real property is situated or to the county, if the real property is situated in an unincorporated area, or to the Tribal Council of the Agua Caliente Band of Cahuilla Indians if the real property is situated within the trust lands of the Agua Caliente Indian Reservation, of its intention to acquire the real property by eminent domain. The conservancy shall not, however, acquire any real property by eminent domain if either of the following is the case:

(1) No part of the real property is mountainous land.

(2) The acquisition is objected to by the city in which the real property is situated or by the county, if the real property is situated in an unincorporated area, or by the Tribal Council of the Agua Caliente Band of Cahuilla Indians, if the real property is situated within the trust lands of the Agua Caliente Indian Reservation. To be effective, the objection shall be made by a resolution of the city council or the county board of supervisors or the Tribal Council of the Agua Caliente Band of Cahuilla Indians, as the case may be, adopted within 60 days of the receipt of notice from the conservancy indicating its intention to acquire the real property by eminent domain. The city or the county or the tribal council, as the case may be, may at any subsequent time rescind its objection to an acquisition by eminent domain.

(b) If the conservancy acquires real property by eminent domain, and determines that it is not possible to avoid bisecting it by the

procedure authorized by subdivision (b) of Section 33700, the conservancy shall cause it to be subdivided and shall offer to grant the portion that is not mountainous lands to the condemnee at a price not to exceed current market value on the condition that the condemnee waive all claims and actions against the conservancy for severance damages.

SEC. 13. Section 33803 of the Public Resources Code is amended to read:

33803. (a) The conservancy may raise revenues for any lawful purpose of the conservancy pursuant to this chapter.

(b) If the conservancy proposes to raise revenue by the levy of an assessment on real property or by the levy of any type of tax or increase in any existing tax authorized by this chapter, and the law authorizing the assessment or tax requires the approval of the electors of the conservancy, the assessment or tax may not be levied unless and until it is approved by the electors of the conservancy at an election held for that purpose. Any assessment or tax levied by the conservancy shall be approved by two-thirds of the votes cast by the electors of the conservancy if the law authorizing the assessment or tax requires approval by two-thirds of the votes cast, or shall be approved by a majority of the votes cast by the electors of the conservancy if the law authorizing the assessment or tax provides for approval by a majority of the votes cast.

(c) Any election conducted by the conservancy shall be consolidated with a statewide election or any election conducted throughout the County of Riverside.

CHAPTER 268

An act to amend Sections 462 and 10253 of the Health and Safety Code, and to repeal Section 9 of Chapter 453 of the Statutes of 1974, relating to sudden infant death syndrome.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 462 of the Health and Safety Code is amended to read:

462. (a) For purposes of this section the following definitions shall apply:

(1) "Appropriately trained public health professional" means a public health nurse or a social worker who is knowledgeable about the incidence of sudden infant death syndrome and the care and support of persons who have experienced a death of this nature, and who has basic grief counseling skills.

(2) "Contact" is a face-to-face visit, a group visit, or a telephone

call which provides one or more of the following services:

(A) An assessment of the family, child care provider, or both.

(B) Crisis intervention and counseling.

(C) A referral to a community service.

(D) A followup assessment of the family's, the child care provider's, or both family's and child care provider's progress.

(3) "Immediately" means within three working days of receiving notice from the coroner or other reporting agent of a death presumedly caused by sudden infant death syndrome.

(4) "Local health officer" means a health officer for a city, county, or city and county.

(b) Upon being informed by the coroner pursuant to Section 10253 of any case in which sudden infant death syndrome is the presumed cause of death, the local health officer or his or her designated agent, who is an appropriately trained public health professional, after consultation with the infant's physician of record, when possible, shall immediately contact the person or persons who had custody and control of the infant, including foster parents, when applicable, for the purposes of providing to that person information, support, referral, and followup services relating to sudden infant death syndrome. If the infant was in child care, the local health officer or his or her designated agent who is an appropriately trained public health professional also shall immediately contact the child care provider.

(c) The local health officer shall perform the duties required by this section throughout the jurisdiction of that local health officer.

SEC. 2. Section 10253 of the Health and Safety Code is amended to read:

10253. In any case involving an infant under the age of one year where the gross autopsy results in a presumed diagnosis of sudden infant death syndrome, the coroner shall, within 24 hours of the gross autopsy, notify the local health officer, as defined in Section 462.

SEC. 3. Section 9 of Chapter 453 of the Statutes of 1974 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.

CHAPTER 269

An act to amend Section 3071 of, and to add Section 3073.5 to, the Labor Code, relating to apprenticeship.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 3071 of the Labor Code is amended to read:

3071. The California Apprenticeship Council shall meet at the call of the Director of Industrial Relations and shall aid him or her in formulating policies for the effective administration of this chapter.

Thereafter, the California Apprenticeship Council shall meet quarterly at a designated date and special meetings may be held at the call of the chairman. The California Apprenticeship Council shall issue rules and regulations which establish standards for minimum wages, maximum hours, and working conditions for apprentice agreements, hereinafter in this chapter referred to as apprenticeship standards, which in no case shall be lower than those prescribed by this chapter; and shall issue rules and regulations governing equal opportunities in apprenticeship, affirmative action programs which include women and minorities in apprenticeship, and other on-the-job training, and criteria for selection procedures with a view particularly toward eliminating criteria not relevant to qualification for training employment or more stringent than is reasonably necessary.

SEC. 2. Section 3073.5 is added to the Labor Code, to read:

3073.5. The Chief of the Division of Apprenticeship Standards and the California Apprenticeship Council shall annually report through the Director of Industrial Relations to the Legislature and the public on the activities of the division and the council. The report shall contain information including, but not limited to, analyses of the following:

(a) The number of individuals, including numbers of women and minorities, registered in apprenticeship programs in this state.

(b) The number and percentage of apprentices, including numbers and percentages of minorities and women, registered in each apprenticeship program having five or more apprentices, and the percentage of those apprentices who complete their programs successfully.

(c) Remedial actions taken by the division to assist those apprenticeship programs having difficulty in achieving affirmative action goals or having very low completion rates.

(d) The number of disputed issues with respect to individual apprenticeship agreements submitted to the Administrator of Apprenticeship for determination and the number of those issues

resolved by the council on appeal.

(e) The number of apprenticeship program applications received by the division, the number approved, the number denied and the reason for those denials, the number being reviewed, and deficiencies, if any, with respect to those program applications being reviewed.

CHAPTER 270

An act to add Section 798.88 to the Civil Code, relating to mobilehome parks.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 798.88 is added to the Civil Code, to read:

798.88. (a) In addition to any right under Article 6 (commencing with Section 798.55) to terminate the tenancy of a homeowner, any person in violation of a reasonable rule or regulation of a mobilehome park may be enjoined from the violation as provided in this section.

(b) A petition for an order enjoining a continuing or recurring violation of any reasonable rule or regulation of a mobilehome park may be filed by the management thereof with the superior court for the county in which the mobilehome park is located. At the time of filing the petition, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527 of the Code of Civil Procedure. A temporary order restraining the violation may be granted, with notice, upon the petitioner's affidavit showing to the satisfaction of the court reasonable proof of a continuing or recurring violation of a rule or regulation of the mobilehome park by the named homeowner or resident and that great or irreparable harm would result to the management or other homeowners or residents of the park from continuance or recurrence of the violation.

(c) A temporary restraining order granted pursuant to this subdivision shall be personally served upon the respondent homeowner or resident with the petition for injunction and notice of hearing thereon. The restraining order shall remain in effect for a period not to exceed 15 days, except as modified or sooner terminated by the court.

(d) Within 15 days of filing the petition for an injunction, a hearing shall be held thereon. If the court, by clear and convincing evidence, finds the existence of a continuing or recurring violation of a reasonable rule or regulation of the mobilehome park, the court shall issue an injunction prohibiting the violation. The duration of the injunction shall not exceed three years.

(e) However, not more than three months prior to the expiration of an injunction issued pursuant to this section, the management of the mobilehome park may petition under this section for a new injunction where there has been recurring or continuous violation of the injunction or there is a threat of future violation of the mobilehome park's rules upon termination of the injunction.

(f) Nothing shall preclude a party to an action under this section from appearing through legal counsel or in propria persona.

(g) The remedy provided by this section is nonexclusive and nothing in this section shall be construed to preclude or limit any rights the management of a mobilehome park may have to terminate a tenancy.

CHAPTER 271

An act to amend Sections 2104 and 2110 of the Streets and Highways Code, relating to highways, and making an appropriation therefor.

[Approved by Governor July 29, 1991 Filed with Secretary of State July 29, 1991.]

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

SECTION 1. Section 2104 of the Streets and Highways Code, as amended by Chapter 13 of the Statutes of 1991, is amended to read:

2104. A sum equal to the net revenue derived from a per gallon tax of 2.035 cents ($0.02035) under the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), and 1.80 cents ($0.0180) under the Use Fuel Tax Law (Part 3 (commencing with Section 8601) of that division), shall be apportioned among the counties, as follows:

(a) Each county shall be paid one thousand six hundred sixty-seven dollars ($1,667) during each calendar month, which amount shall be expended exclusively for engineering costs and administrative expenses with respect to county roads.

(b) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or five million five hundred thousand dollars ($5,500,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads, as provided in Section 2110.

(c) A sum equal to five hundred thousand dollars ($500,000) shall be apportioned in 12 approximately equal monthly apportionments, as provided in Section 2110.5.

(d) Seventy-five percent of the funds payable under this section shall be apportioned among the counties monthly in the respective proportions that the number of fee-paid and exempt vehicles which are registered in each county bears to the total number of fee-paid

and exempt vehicles registered in the state.

For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount monthly computed, as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars ($60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

SEC. 2. Section 2110 of the Streets and Highways Code is amended to read:

2110. (a) The moneys payable to the counties under subdivision (b) of Section 2104 shall be apportioned monthly among the several counties as follows:

(1) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or five million five hundred thousand dollars ($5,500,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads as follows:

(2) If the total is less than five million five hundred thousand dollars ($5,500,000), the full amount of reimbursable snow removal costs shall be apportioned to the several counties in an amount equal to that computed pursuant to the report filed by each county pursuant to subdivision (d) of Section 2152.

(3) If the total is five million five hundred thousand dollars ($5,500,000) or more for the fiscal year, the Controller shall compute percentages for the apportionment of five million five hundred thousand dollars ($5,500,000) to the several counties in the state for snow removal on county roads, including the purchase of snow removal equipment therefor, and shall apportion the amount to the counties in the computed percentages. The percentage each county is to be apportioned during the fiscal year shall be derived by adding its reimbursable snow removal expenditures for the three preceding fiscal years as to which the Controller has received snow removal expenditure reports pursuant to Section 2152, and dividing the sum by the total amount of reimbursable snow removal expenditures by all counties in the state during those fiscal years.

(b) On or before the first day of March of each year, the Controller shall notify each county of the amount apportioned to it pursuant to this section for expenditure for snow removal on county

roads during the following fiscal year.

CHAPTER 272

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

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991]

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, 1997, 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 273

An act to add Section 2892 to the Public Utilities Code, relating to public utilities.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 29, 1991.]

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

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

(a) Pursuant to Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, various local agencies working in conjunction with public utility telephone corporations have established local emergency telephone systems utilizing 911 as a primary access number.

(b) In recent years, domestic public land cellular radiotelephone systems have been established in various parts of California, and these systems offer an opportunity for the traveling public to seek emergency assistance, and to report threats to the public health and safety in situations where immediate access to conventional landline telephones is limited.

(c) Cellular subscribers are presently subject to an emergency telephone user surcharge and may also be required to pay added airtime charges for calls to emergency telephone services.

(d) The public interest would be served by requiring cellular radiotelephone utilities to provide their customers with free access to 911 services, and by requiring that that access be without paying the airtime charges which customarily are due for all communications on the cellular network.

SEC. 2. Section 2892 is added to the Public Utilities Code, to read:

2892. The commission shall, by rule or order, require that every facilities-based cellular service provider provide access for end users on its system to the local emergency telephone services described in

Section 53100 of the Government Code, that they shall utilize the "911" code as the primary access number for those services, and that where feasible "911" calls from cellular units shall be routed to an office of the California Highway Patrol that is nearest to the cell site from which the call has originated. In addition, the commission, by rule or order, shall require that every cellular service provider include in its tariffs a provision to the effect that there shall be no airtime or similar usage charge for calls placed from a cellular unit to the emergency telephone services system.

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 274

An act to add Sections 12987 and 12988 to the Food and Agricultural Code, and to amend Sections 6393 and 6397 of the Labor Code, relating to toxic substances.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 12987 is added to the Food and Agricultural Code, to read:

12987. The director shall require registrants of pesticides to submit the data necessary to perform the director's duties under this article.

SEC. 2. Section 12988 is added to the Food and Agricultural Code, to read:

12988. No pesticide may be registered or reregistered unless the director determines that the registrant has complied with this article.

SEC. 3. Section 6393 of the Labor Code is amended to read:

6393. The manufacturer shall be relieved of the obligation to provide a specific purchaser of a hazardous substance with an MSDS pursuant to Section 6390 if the manufacturer has a record of having provided the specific purchaser with the most current version of the MSDS, or if the product is one sold at retail and is incidentally sold to an employer or the employer's employees, in the same form, approximate amount, concentration, and manner as it is sold to

consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product. Except for products so labeled, the provisions of this section do not relieve the manufacturer of the requirement to provide direct purchasers with new, revised, or later information or MSDS pursuant to the provisions of Section 6390.

SEC. 4. Section 6397 of the Labor Code is amended to read:

6397. (a) Any person other than a manufacturer who sells a mixture or any hazardous substance shall provide its direct purchasers of the mixture or hazardous substance at the time of sale with a copy of the most recent MSDS or equivalent information prepared and supplied to the person pursuant to either Section 6390 or subdivision (b) whenever it is foreseeable that the provisions of this chapter may apply to the purchaser.

(b) Any person who produces a mixture may, for the purposes of this section, prepare and use a mixture MSDS, subject to the provisions of Section 6395.

(c) Any person subject to the provisions of subdivision (a) shall be relieved of the obligation to provide a specific purchaser of a hazardous substance with an MSDS if he or she has a record of having provided the specific purchaser with the most recent version of the MSDS, or if the product is one sold at retail and is incidentally sold to an employer or the employer's employees, in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product.

CHAPTER 275

An act to amend Section 33213 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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) One representative of the Rancho Simi Recreation and Park District, to be appointed by the district board of directors.

(4) One representative of the Conejo Recreation and Park District, to be appointed by the district board of directors.

(5) One representative of the Pleasant Valley Recreation and Park District, to be appointed by the district board of directors.

(6) One representative of the City of Santa Clarita, to be appointed by the city council.

(7) One representative of the City of Moorpark, 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 and appointed 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. 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 807 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 807 of the Unemployment Insurance Code is amended to read:

807. (a) The Santa Cruz County Symphony Association may elect reimbursement financing under Section 801 when the director finds that the association made a good faith error in the classification of individuals providing services to the association.

(b) Notwithstanding subdivision (c) of Section 801, when an election is made pursuant to subdivision (a), it shall be from the time the Santa Cruz County Symphony Association became an employer.

(c) To the extent permitted by federal law, if the Santa Cruz County Symphony Association has a favorable reserve account on the date it makes the election, it shall not be liable for the reimbursement of benefits pursuant to the election except to the extent the cost of benefits exceeds the sum of the amount in the reserve account and the full amount of any previous assessment for unemployment benefits, excluding interest and penalties charged by the department, which has been paid by the association prior to election.

(d) Notwithstanding Section 1029, the reserve account of the Santa Cruz County Symphony Association shall not be canceled and the cost of benefits otherwise chargeable to the association shall be charged to the reserve account until it is exhausted.

(e) An election pursuant to this section shall be made only once.

(f) Payment of the cost of benefits shall be as provided in Section 803 except that benefits paid more than 90 days prior to the date of election under this section shall accrue interest as provided in Section 1113, and except that interest shall not accrue when the cost of benefits paid does not exceed the amount in the reserve account of the Santa Cruz County Symphony Association.

(g) Except as otherwise provided, the election under Section 801 made pursuant to this section shall be subject to all provisions of Section 803.

(h) Subdivisions (c) and (d) shall not be implemented unless the Director of Employment Development determines that this section is approved by the United States Department of Labor. The Director of Employment Development shall immediately seek this approval from the United States Department of Labor.

(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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or 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 a technical error in a statute enacted in 1990 that permits, until January 1, 1992, the Santa Cruz County Symphony Association to elect reimbursement financing of their unemployment insurance obligations, it is necessary that this act take effect immediately.

CHAPTER 277

An act to amend Section 13127 of the Food and Agricultural Code, relating to pesticides, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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 and to suspend registration 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. If a hearing is requested regarding the proposed suspension of registration, it shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government 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) .

(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) . 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:

Section 13127 of the Food and Agricultural Code was amended during the 1989-90 Regular Session of the Legislature by Chapter 432 of the Statutes of 1990. However, the version of the section that was printed was an earlier version, as amended by Chapter 869 of the Statutes of 1989, and it did not contain amendments later enacted in that section by Chapter 1083 of the Statutes of 1989. In order to correct that inadvertent error as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 278

An act to amend Section 6254 of the Government Code, to amend Sections 443.32, 1189.109, 1189.110, 1189.113, 1216, 1797.98c, 1797.98e, 24163, 24164, 24164.5, 24165.2, 24165.3, 24165.5, 24167, and 24169.8 of, and to add Sections 24168.4, 24168.5, 24168.6, 24168.7, 24168.8, and 24168.9 to, the Health and Safety Code, to amend Sections 12710, 12725.5, 12730, and 12739 of, and to add and repeal Part 6.3 (commencing with Section 12695) of Division 2 of, the Insurance Code, to amend Sections 14148.5, 14148.6, 16910, 16915, 16918, 16932, 16934.5, 16945, 16946, 16943, 16947, 16948, 16953, 16953.1, and 16997.1

of, to add Sections 16941.1, 16953.2, 16954, 16990, and 16953.3 to, and to add and repeal Article 4.8 (commencing with Section 14148.9) of Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, and to amend Sections 57 and 69 of Chapter 51 of the Statutes of 1990, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

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

(a) That prenatal care is critical to healthy birth outcomes, and that healthy birth outcomes are critical to full and productive lives.

(b) That there are many women in California who do not receive prenatal care nor do their children receive adequate care early in life.

(c) That there is a correlation between lack of health insurance and lack of prenatal and preventive health care.

(d) That there is a direct correlation between tobacco use during pregnancy and adverse birth outcomes.

(e) That many women and children who do not receive this care are not eligible for public assistance programs, yet cannot afford to pay for the care.

(f) That every year 90,000 California women are unsponsored for prenatal care, and 50,000 California women are unsponsored for maternity services at the time of delivery.

(g) That lack of a sponsor for the cost of prenatal and maternity services results in restricted access to those services.

(h) That the Legislature is committed to providing access to all California women and their children for perinatal care and child health care.

(i) That the preferential method of providing care through a cooperative public or private effort using existing provider services and networks should be evaluated to determine whether access to prenatal care and birth outcomes are improved.

(j) That consumers of health care are more cost conscious in their utilization of health care services when they financially contribute to paying for the care.

(k) That an effective means of providing coverage for these services is to subsidize purchase of private health care coverage.

(*l*) It is the intent of the Legislature in enacting this act to do all of the following:

(1) Provide expanded access to health care services for pregnant women and their children as a first step toward providing health coverage for all Californians.

(2) Provide meaningful and effective health education materials to all program participants.

(3) Build on the existing system of financing and delivery of health care services.

(4) Enable low income persons to secure maternity and child health care services at affordable rates through state subsidy of the cost of private health insurance coverage.

(5) Reduce the incidence of negative delivery and birth outcome of pregnant women covered under the program who give birth in California.

SEC. 1.2. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such

investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, or 289 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.

When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

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

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which

are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

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

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

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry concealed weapons issued by the sheriff of a county or the chief or other head of a municipal police department which indicates when or where the applicant is vulnerable to attack or which concerns the applicant's medical or psychological history or that of members of his or her family.

(v) Residence addresses contained in licensure applications and registration applications for collection agencies as may be required by the Bureau of Collection and Investigative Services of the Department of Consumer Affairs pursuant to Sections 6876.2, 6877, 6878, and 6894.3 of the Business and Professions Code.

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and which reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

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

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

Nothing in this section prevents any agency from opening its

records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 1.4. Section 443.32 of the Health and Safety Code, as amended by Section 1.5 of Chapter 51 of the Statutes of 1990, is amended to read:

443.32. Commencing with the first calendar quarter of 1986, and ending with the fourth quarter of 1991, summary financial and utilization data shall be reported to the office by each hospital within 45 days of the end of every calendar quarter. Adjusted reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospital's fiscal or calendar year. The quarterly summary financial and utilization data shall conform to the uniform description of accounts as contained in the Accounting and Reporting Manual for California Hospitals and shall include all of the following:

(a) Number of licensed beds.

(b) Average number of available beds.

(c) Average number of staffed beds.

(d) Number of discharges.

(e) Number of inpatient days.

(f) Number of outpatient visits.

(g) Total operating expenses.

(h) Total inpatient gross revenues.

(i) Total outpatient gross revenues.

(j) Total deductions from revenue, including bad debts, charity care, and Medicare and Medi-Cal contractual allowances.

(k) Total capital expenditures.

(*l*) Total net fixed assets.

(m) Total number of inpatient days, outpatient visits, and discharges by payer source, including Medi-Cal, Medicare, and other sources.

(n) Total net patient revenues by payer source, including, but not limited to, Medicare, Medi-Cal, and other payers.

Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in subdivisions (g), (h), (i), (j), and (n) of this section on a group basis, as described in subdivision (d) of Section 443.34.

The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

(o) The office, with the advice of the commission, shall adopt by regulation guidelines for the identification, assessment, and reporting of charity care services. In establishing the guidelines, the office shall consider the principles and practices recommended by

professional health care industry accounting associations for differentiating between charity services and bad debts. The office shall further conduct the onsite validations of health facility accounting and reporting procedures and records as are necessary to assure that reported data are consistent with regulatory guidelines.

(p) 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. 1.5. Section 443.32 of the Health and Safety Code, as amended by Section 2 of Chapter 51 of the Statutes of 1990, is amended to read:

443.32. (a) Commencing with the first calendar quarter of 1992, the following summary financial and utilization data shall be reported to the office by each hospital within 45 days of the end of every calendar quarter. Adjusted reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospital's fiscal or calendar year. The quarterly summary financial and utilization data shall conform to the uniform description of accounts as contained in the Accounting and Reporting Manual for California Hospitals and shall include all of the following:

(1) Number of licensed beds.

(2) Average number of available beds.

(3) Average number of staffed beds.

(4) Number of discharges.

(5) Number of inpatient days.

(6) Number of outpatient visits.

(7) Total operating expenses.

(8) Total inpatient gross revenues by payer, including Medicare, Medi-Cal, county indigent programs, other third parties, and other payers.

(9) Total outpatient gross revenues by payer, including Medicare, Medi-Cal, county indigent programs, other third parties, and other payers.

(10) Deductions from revenue in total and by component, including the following: Medicare contractual adjustments, Medi-Cal contractual adjustments, and county indigent program contractual adjustments, other contractual adjustments, bad debts, charity care, restricted donations and subsidies for indigents, support for clinical teaching, teaching allowances, and other deductions.

(11) Total capital expenditures.

(12) Total net fixed assets.

(13) Total number of inpatient days, outpatient visits, and discharges by payer, including Medicare, Medi-Cal, county indigent programs, other third parties, self-pay, charity, and other payers.

(14) Total net patient revenues by payer including Medicare, Medi-Cal, county indigent programs, other third parties, and other payers.

(15) Other operating revenue.

(16) Nonoperating revenue net of nonoperating expenses.

(b) Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in paragraphs (7), (8), (9), (10), (14), (15), and (16) of subdivision (a) on a group basis, as described in subdivision (d) of Section 443.34.

(c) The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

(d) The office, with the advice of the commission, shall adopt by regulation guidelines for the identification, assessment, and reporting of charity care services. In establishing the guidelines, the office shall consider the principles and practices recommended by professional health care industry accounting associations for differentiating between charity services and bad debts. The office shall further conduct the onsite validations of health facility accounting and reporting procedures and records as are necessary to assure that reported data are consistent with regulatory guidelines.

This section shall become operative January 1, 1992.

SEC. 2. 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.

(3) Any claim submitted pursuant to this subdivision that is related to a service provided in any of the 1990–91, 1991–92, 1992–93, or 1993–94 fiscal years shall be submitted no later than 90 days after the close of that fiscal year.

(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, and shall also provide a copy to the state director of the program.

(d) (1) For the 1990–91 to the 1993–94 fiscal years, inclusive, 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) (A) 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.

(B) The state department shall report the evaluation required by subparagraph (A) to the health policy committee of each house of the Legislature no later than April 1 of each year.

(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. 3. Section 1189.110 of the Health and Safety Code is amended to read:

1189.110. (a) For the 1990–91 to 1993–94 fiscal years, inclusive, the department shall establish and maintain a primary care clinic risk pool in which the department shall assume responsibility to pay for dental treatment of a child by the primary care clinic subsequent to the clinic's meeting the requirements of subdivision (b) of Section 1189.109.

(b) Payment under this section shall be available when the clinic has done either of the following:

(1) Detected the condition as part of a child health and disability prevention screen pursuant to Section 1189.109 and has directly provided the treatment.

(2) Provided the treatment upon referral from another child health and disability prevention provider.

SEC. 4. Section 1189.113 of the Health and Safety Code is amended to read:

1189.113. This part shall remain operative only until July 1, 1994, and 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. 5. Section 1216 of the Health and Safety Code, as amended by Section 8 of Chapter 51 of the Statutes of 1990, is amended to read:

1216. (a) Every clinic holding a license shall, on or before the 15th day of February each year, file with the Office of Statewide Health Planning and Development upon forms to be furnished by the office, a verified report showing the following information relating to the previous calendar year:

(1) Number of patients served and descriptive information, including age, gender, race, and ethnic background of patients.

(2) Number of patient visits by type of service, including all of the following:

(A) Child health and disability prevention screens, treatment, and followup services.

(B) Medical services.

(C) Dental services.

(D) Other health services.

(3) Total clinic operating expenses.

(4) Gross patient charges by payer category, including Medicare, Medi-Cal, the Child Health Disability Prevention Program, county indigent programs, other county programs, private insurance, self-paying patients, nonpaying patients, and other payers.

(5) Deductions from revenue by payer category, bad debts, and charity care charges.

(6) Additional information as may be required by the office or the department.

(b) In the event a clinic fails to file a timely report, the department may suspend the license of the clinic until the report is completed and filed with the office.

(c) In order to promote efficient reporting of accurate data, the office shall consider the unique operational characteristics of different classifications of licensed clinics, including, but not limited to, the limited scope of services provided by some specialty clinics, in its design of forms for the collection of data required by this section.

(d) For the purpose of administering funds appropriated from the Cigarette and Tobacco Products Surtax Fund for support of licensed clinics, clinics receiving those funds may be required to report any additional data the office or the department may determine necessary to ensure the equitable distribution and appropriate expenditure of those funds. This shall include, but not be limited to, information about the poverty level of patients served and communicable diseases reported to local health departments.

(e) This section shall apply to all primary care clinics.

(f) This section shall apply to all specialty clinics, as defined in paragraph (2) of subdivision (a) of Section 1204 of the Health and

Safety Code that receive tobacco tax funds pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code.

(g) Specialty clinics that are not required to report pursuant to subdivision (f) shall report data as directed in Section 1216 as it existed prior to the enactment of Chapter 1331 of the Statutes of 1989 and Chapter 51 of the Statutes of 1990.

SEC. 6. Section 1797.98c of the Health and Safety Code is amended to read:

1797.98c. (a) Physicians and surgeons wishing to be reimbursed shall submit their losses incurred due to patients who do not make any payment for services and for whom no responsible third party makes any payment. No physicians and surgeons shall be reimbursed greater than 50 percent of those losses.

(b) If, after receiving payment from the fund, a physician and surgeon is reimbursed by a patient or a responsible third party, the physician and surgeon shall do one of the following:

(1) Notify the administering agency, and, after notification, the administering agency shall reduce the physician and surgeon's future payment of claims from the fund. In the event there is not a subsequent submission of a claim for reimbursement within one year, the physician and surgeon shall reimburse the fund in an amount equal to the amount collected from the patient or third-party payer, but not more than the amount of reimbursement received from the fund.

(2) Notify the administering agency of the payment and reimburse the fund in an amount equal to the amount collected from the patient or third-party payer, but not more than the amount of the reimbursement received from the fund for that patient's care.

(c) Reimbursement for losses incurred by any physician and surgeon shall be limited to services provided to a patient described in subdivision (f) of Section 16952 of the Welfare and Institutions Code, and where all of the following conditions have been met:

(1) The physician and surgeon has inquired if there is a responsible third-party source of payment.

(2) The physician and surgeon has billed for payment of services.

(3) Either of the following:

(A) A period of not less than three months has passed from the date the physician and surgeon billed the patient or responsible third party, during which time the physician and surgeon has made reasonable efforts to obtain reimbursement and has not received reimbursement for any portion of the amount billed.

(B) The physician and surgeon has received actual notification from the patient or responsible third party that no payment will be made for the services rendered by the physician and surgeon.

(4) The physician and surgeon has stopped any current, and waives any future, collection efforts to obtain reimbursement from the patient, upon receipt of funds from the fund.

(d) A listing of patient names shall accompany a physician and

surgeon's submission, and those names shall be given full confidentiality protections by the administering agency.

(e) Notwithstanding any other restriction on reimbursement, a county may adopt a fee schedule to establish a uniform reasonable level of reimbursement from the county's emergency medical services fund for reimbursable services.

SEC. 7. Section 1797.98e of the Health and Safety Code is amended to read:

1797.98e. (a) It is the intent of the Legislature that a simplified, cost-efficient system of administration of this chapter be developed so that the maximum amount of funds may be utilized to reimburse physicians and surgeons and for other emergency medical services purposes. The administering agency shall establish procedures and time schedules for the submission and processing of proposed reimbursement requests submitted by physicians and surgeons. The schedule shall provide for disbursements of moneys in the Emergency Medical Services Fund on at least an annual basis to applicants who have submitted accurate and complete data for payment by a date to be established by the administering agency. When the administering agency determines that claims for payment are of sufficient numbers and amounts, that if paid, the claims would exceed the total amount of funds available for payment, the administering agency shall prorate payments to each claimant at a level less than the maximum payment level. Each administering agency may encumber sufficient funds during one fiscal year to reimburse claimants for losses incurred during that fiscal year for which claims will not be received until after the fiscal year. The administering agency may, as necessary, request records and documentation to support the amounts of reimbursement requested by physicians and surgeons and the administering agency may review and audit such records for accuracy. Reimbursements requested and reimbursements made that are not supported by records may be denied to and recouped from physicians and surgeons. Physicians and surgeons found to submit requests for reimbursement that are inaccurate or unsupported by records may be excluded from submitting future requests for reimbursement.

(b) Each provider of health services which receives payment under this chapter shall keep and maintain records of the services rendered, the person to whom rendered, the date, and any additional information the administering agency may, by regulation, require, for a period of three years from the date the service was provided.

(c) During normal working hours, the administering agency may make any inspection and examination of a hospital's or physician and surgeon's books and records needed to carry out the provisions of this chapter. A provider who has knowingly submitted a false request for reimbursement shall be guilty of civil fraud.

(d) Nothing in this chapter shall prevent a physician from utilizing an agent who furnishes billing and collection services to the physician to submit claims or receive payment for claims.

(e) All payments from the fund shall be limited to claims for care rendered by physicians and surgeons to patients who are initially medically screened, evaluated, treated, or stabilized in one of the following:

(1) A basic or comprehensive emergency department of a licensed general acute care hospital.

(2) A site that was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients.

(3) A standby emergency department that was in existence on January 1, 1989, in a hospital specified in Section 1188.855.

(f) Notwithstanding any other restrictions on reimbursement, a county may adopt a fee schedule to establish a uniform, reasonable level of reimbursement from the Emergency Medical Services Fund for reimbursable services.

SEC. 8. Section 24163 of the Health and Safety Code is amended to read:

24163. The committee shall be advisory to the State Department of Health Services and State Department of Education for the following purposes:

(a) Evaluation of school- and community-based programs funded under this chapter as necessary in order to assess the overall effectiveness of efforts made by the programs to reduce the use of tobacco products. In order to evaluate tobacco education and cessation programs, the committee shall seek the cooperation and assistance of the State Department of Health Services, the State Department of Education, county offices of education, local lead agencies, administrative representatives, target populations, school officials, and researchers. A principal measurement of effectiveness shall be reduction of smoking rates among a given target population.

(b) Facilitation of programs directed at reducing and eliminating tobacco use that are operated jointly by more than one agency or entity. The committee shall propose strategies for the coordination of proposed programs administered by the State Department of Health Services and the State Department of Education in order to avoid the duplication of services and to maximize the public benefit of the programs.

(c) Make recommendations to the State Department of Health Services and the State Department of Education regarding the most appropriate criteria for the selection of, standards of the operation of, and the types of programs to be funded under this chapter.

(d) Reporting to the Legislature on or before January 1 of each year on the number and amount of tobacco education programs funded by the Health Education Account, created by Section 30122 of the Revenue and Taxation Code, the amount of money in the account, any moneys previously appropriated to be State Department of Health Services and the State Department of Education but unspent by the departments, a description and assessment of all programs funded under this chapter, and

recommendations for any necessary policy changes or improvements for tobacco education programs.

(e) Ensuring that the most current research findings regarding tobacco use prevention are applied in designing the tobacco education programs administered by the State Department of Health Services and the State Department of Education. The State Department of Health Services and the State Department of Education shall apply the most current findings and recommendations of research including research funded by the Research Account of the Cigarette and Tobacco Products Surtax Fund created by Section 30122 of the Revenue and Taxation Code.

(f) Based on the results of programs supported by this chapter and any other proven methodologies available to the committee, produce a comprehensive master plan for implementing tobacco education programs throughout this state for the prevention and cessation of tobacco use. The master plan shall include implementation strategies for each target population specified in Section 24161.5 for programs throughout this state. The Tobacco Education Oversight Committee shall submit the master plan to the Legislature on or before January 1, 1991, and shall be updated every two years thereafter until a progress report is completed on January 15, 2000. The master plan and its revisions shall include recommendations on administrative arrangements, funding priorities, integration and coordination of approaches by the State Department of Health Services and the State Department of Education and their support systems, as well as progress reports relating to each target population. The master plan shall establish a goal of achieving a 75-percent reduction in tobacco consumption in California by the year 1999.

SEC. 9. Section 24164 of the Health and Safety Code is amended to read:

24164. To prevent tobacco-related diseases and diminish tobacco use, the State Department of Health Services shall do all of the following:

(a) Conduct, or contract for, an initial baseline survey and annual followup surveys of attitudes and behavior regarding tobacco use and a description of information received by the public regarding smoking and tobacco use. The department shall issue a request for proposals for the 1989–90 baseline study, evaluate proposals and select a contractor or contractors by December 31, 1989.

(b) The department shall produce or contract for, and update biennially, a description of programs recognized as effective in reducing smoking and tobacco use, and the identification of portions of target populations which need information regarding the hazards of tobacco use.

(c) Establish within the state department a program on tobacco use and health to promote the study of effective tobacco use interventions and behavior programs in community and other nonschool settings. By September 1, 1990, the state department shall

develop a mechanism to implement a systematic and independent evaluation of the local and state programs established under this chapter. The purpose of the evaluation is to direct the most efficient allocation of resources appropriated under this chapter to accomplish the maximum prevention and reduction of tobacco use. This comprehensive evaluation shall be designed to measure the extent to which programs funded under this chapter promote the goals identified in this chapter and in Proposition 99 of the November 1988 general election. The evaluation design shall do all of the following:

(1) Be based on sound evaluation principles and include, to the extent feasible, elements of controlled experimental methods.

(2) Monitor the overall statewide effect of health education efforts on smoking and tobacco use, and, to the extent feasible, the resulting effects on health.

(3) Monitor the effect of the programs on individual target populations identified by this chapter or designated by the state department as meriting special attention.

(4) Provide an evaluation of the comparative effectiveness of individual program designs which shall be used in funding decisions and program modifications.

(5) Incorporate other aspects into the evaluation which have been identified by the state department in consultation with state and local advisory groups, local lead agencies, and other interested parties.

(d) The state department shall provide a report to the Legislature on January 1, 1992, and each succeeding year on the progress of the evaluation.

(e) The state department and local lead agencies shall use the evaluation in the administration and allocation of funds awarded pursuant to this chapter in order to maximize the effectiveness of this program.

(f) Assist the State Department of Education in identifying and developing instructional materials and curricula in school-based programs, designed to enhance the prevention of and encouraging the cessation of the continuing use of, tobacco products. The materials and curricula shall address the specific needs of persons in kindergarten and grades 1 to 12, inclusive, and in adult education programs.

(g) (1) Contract with one or more qualified agencies for production and implementation of an ongoing public awareness of tobacco-related diseases by developing an information campaign using a variety of media approaches. The department shall issue a request for proposals for the 1989–90 media campaign, evaluate proposals submitted, and select a contractor or contractors by February 1, 1990. For subsequent fiscal years, the department shall issue a request for proposals biennially. Any media campaign funded with this part shall stress the importance of both preventing the initiation of tobacco use and quitting smoking and shall be based on

professional market research and surveys necessary to determine the most effective method of diminishing tobacco use among specified target populations. Initial media efforts shall be directed to specific target populations. The contractors selected shall be provided with all available survey information resulting from ongoing programs funded under this chapter. Priority shall be given to minor children, ages 6 to 14, inclusive. The medium used shall be determined to be the most effective at reaching this targeted age group. With respect to the broadcast media, the message shall be aired at times expected to reach the priority age group. With respect to the print media, publications to be used shall be those which appeal to the priority age group.

(2) No media campaign funded pursuant to this chapter shall feature in any manner the image or voice of any elected public official or candidate for elected office, or directly represent the views of any elected public official or candidate for elected office.

(h) Provide or contract for training, consultation, support, and continuing education to health professionals, and others interested in developing programs and services directed at preventing tobacco use and promoting smoking cessation, utilizing, when available and determined appropriate by the state department, the expertise of universities in this state and schools of public health. The training, consultation, support, and continuing education shall include advice and support in creating a smoke-free environment.

(i) Conduct an awards program to acknowledge the outstanding achievements of those communities, organizations, and groups that have fostered movement toward a smoke-free society or have reduced the consumption of tobacco.

(j) The department shall issue guidelines for local plans for education against tobacco use. The guidelines shall require local public health departments to provide services directed at preventing tobacco use and promoting smoking cessation to the target populations enumerated in Section 24161.5 and to persons under 19 years of age who no longer attend school and to youth attending school who are not served through State Department of Education funded programs. The guidelines shall require for each target population to be served a description of the services to be provided, an estimate of the number to be served, an estimate of the success rate, and a method to determine to what extent goals have been achieved. Beginning with the 1990–91 fiscal year, and for each fiscal year thereafter, the guidelines shall require local lead agencies to describe how local funding decisions will take into account evaluations of program effectiveness and efficiency. The guidelines shall require the submission of a budget and information on staffing configurations.

(k) By December 31, 1989, the department shall issue guidelines for fiscal year 1989–90 and by July 1, 1990, the department shall issue guidelines to local lead agencies on how to prepare a local plan for a comprehensive community intervention program against tobacco

use.

(*l*) Provide technical assistance to local lead agencies for the development of plans required by Section 24165.5 so that the local lead agencies are able to comply with the schedule for the submission of plans specified in Section 24165.5. The technical assistance shall include, but not be limited to, the following:

(1) Developing and disseminating preventive health education program options for local communities.

(2) Providing training, consultation, and technical assistance to local health departments, local advisory committees, and service providers.

(m) Receive and approve local plans submitted by local lead agencies and provide technical assistance and guidance as necessary to ensure the compliance of the local lead agencies with this chapter. Every effort shall be made to approve or provide a list of necessary amendments to a local plan within 30 days of receipt of the local plan. The state department may authorize a local lead agency to begin implementation of its local plan on a provisional basis, with final approval of the local plan contingent on satisfying conditions specified by the state department.

(n) Work in collaboration with the public and private sectors in implementing the activities required of the state department and provide access upon request to local plans, program statistics, and other readily available information.

(o) Provide staff, assistance, and support needed by the committee.

(p) In consultation with the committee, develop a comprehensive master plan for implementing tobacco education programs throughout the state for the prevention and cessation of tobacco use.

(q) Consult regularly with the University of California regarding trends in the frequency and the cost of treating tobacco-related diseases and the success of research efforts to reduce tobacco use and limit its adverse health effects.

(r) Establish, in consultation with the State Department of Education and county offices of education, a data collection and data management program to study effective tobacco use interventions. Under this program the department may contract for studies and evaluations in school-based and community-based programs. The department shall consult with the State Department of Education regarding the collection and evaluation of program data.

(1) The department shall require, by contract, that local lead agencies use a uniform management data and information system which will permit comparisons of workload, unit costs, and outcome measurements on a statewide basis. The department shall specify data reporting requirements for local lead agencies and their subcontractors.

(2) The department shall approve local lead agency and grantee computer software and hardware in order to ensure systemwide compatibility and capacity to expand. Departmental guidelines for

local plans shall require local lead agencies to set forth their hardware and software plans and needs.

(3) The department may contract for the development or operation of a computerized management information system.

(4) The department shall consult the State Department of Education regarding computer software and hardware systems for school-based programs.

SEC. 9.5. Section 24164.5 of the Health and Safety Code is amended to read:

24164.5. (a) Funds appropriated to the state department for local lead agencies for purposes of this chapter shall be allocated prospectively, on a quarterly basis in accordance with this section:

(b) No local lead agency shall be allocated less than one hundred ten thousand dollars ($110,000).

(c) (1) Except as provided in subdivision (b), counties not listed in subdivision (d) shall receive an allocation based on each county's proportion of the statewide population.

(2) Counties that receive their allocations pursuant to paragraph (1) shall receive 73 percent of their 1990–91 fiscal year allocation.

(d) Except as provided in subdivision (b), the balance of the funds after the allocation contained in subdivision (c) have been made, shall be allocated to the following specified counties in accordance with the following percentages:

COUNTY	ALLOCATION
Alameda	4.7427%
Contra Costa	1.8032%
Fresno	2.6855%
Kern	1.7083%
Lake	0.1826%
Los Angeles	43.8057%
Mendocino	0.2664%
Merced	0.7244%
Monterey	1.2937%
Orange	5.1382%
Placer	0.3697%
Riverside	3.1828%
Sacramento	3.2922%
San Bernardino	3.7972%
San Diego	5.9971%
San Francisco	5.3898%
San Joaquin	1.7413%
San Luis Obispo	0.8096%
San Mateo	1.4582%
Santa Barbara	0.7918%
Santa Clara	5.2450%
Santa Cruz	0.7709%
Stanislaus	1.2793%
Tulare	1.3768%

Ventura	1.5472%
Yolo	0.6004%

(e) Except as provided in subdivision (b), the allocation for those counties in which a city health department which is a local lead agency as defined by subdivision (*l*) of Section 24161 is located shall be apportioned among the local lead agencies in that county based on their jurisdiction's proportionate share of the countywide population.

(f) Reductions in allocations necessary to comply with subdivision (b) shall be distributed among the counties listed in subdivision (d) proportionately based on the table contained in subdivision (d).

(g) The state department shall use population estimates for 1989 for each county and for each city as specified in the Department of Finance E-1 Report.

(h) Payments shall be made prospectively, on a quarterly basis, to local jurisdictions.

(i) (1) The department shall conduct a fiscal and program review on a regular basis.

(2) If the department determines that any county is not in compliance with any provision of this part, the county shall submit to the department, within 60 days, a plan for complying with this part.

(3) The department may withhold funds from counties that are not in compliance with this part in the same manner as the department is authorized under Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

SEC. 9.7. Section 24165.2 of the Health and Safety Code is amended to read:

24165.2. (a) The department may provide program support services to local tobacco use prevention programs, which shall include, but need not be limited to, all of the following:

(1) Data collection.

(2) Educational materials.

(3) Evaluation.

(4) Technical assistance.

(5) Training.

(6) Transfer of information among programs.

(b) Services funded under this section may be awarded through a competitive request for proposal process or directly to another state agency, the Regents of the University of California, the federal government, or an auxiliary organization of the California State University.

(c) Grantees of services under this section shall demonstrate the ability to do both of the following:

(1) Improve the delivery of local tobacco use prevention programs directed at the targeted populations.

(2) Design programs to provide statewide and regional services to

support local implementation of tobacco use prevention programs.

SEC. 9.8. 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 child health and disability prevention 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.

(e) The department shall expand its support and monitoring of county child health and disability prevention program efforts to provide all of the following:

(1) Review of a representative, statistically valid, randomly selected sample of child health and disability prevention health assessments, including, but not limited to, dental assessments, which result in the discovery of conditions which require followup diagnosis and treatment, including but not limited to dental treatment, and which qualify for services under this section. The purpose of the survey and followup reviews of local programs is to determine whether necessary diagnosis and treatment services are being provided, and the degree to which those services comply with the intent of the act that added this subdivision. These survey reviews

shall include all counties and shall be conducted at least three times a year.

(2) At least once a year, as part of regular visits to county child health and disability prevention programs to provide technical assistance, support services and monitoring and evaluation of program performance, state department staff shall review the effectiveness of the mandated treatment program. The purpose of this review is to assure that the county is providing appropriate followup services for conditions discovered during child health and disability prevention health assessments. This review shall be done in conjunction with the ongoing survey activity of the Child Health and Disability Prevention Branch of the State Department of Health Services and shall utilize data resulting from that activity.

(3) If the department establishes that a county has failed to provide treatment services mandated by the act that added this subdivision, the department shall require the county to submit a plan of correction within 90 days. If the department finds that substantial correction has not occurred within 90 days following receipt of the correction plan, it may require the county to enter into a contract pursuant to Section 16934.5 for the remainder of the fiscal year and the following fiscal year, and for this purpose shall withhold the same percentage of funds as are withheld from other counties participating in the program pursuant to Section 16934.5.

SEC. 10. Section 24165.5 of the Health and Safety Code is amended to read:

24165.5. (a) (1) Except as provided in paragraph (2), each county health department or city health department as provided in Section 16700 of the Welfare and Institutions Code shall be the lead local agency for its county. The local lead agency shall have the overall responsibility for the success of the programs funded pursuant to this chapter in its county.

(2) Counties contracting with the State Department of Health Services for the provision of health care services pursuant to Section 16709 of the Welfare and Institutions Code may elect to enter into an arrangement with the state department for the administration and provision of funds and services subject to this chapter in their counties. In those cases, the state department shall act as the local lead agency for that county.

(b) The local lead agency shall do all of the following:

(1) Provide, or contract for, preventive health education against tobacco services to targeted populations.

(2) Establish a coordinated information, referral, outreach, and intake system for preventive health education against tobacco services for targeted populations.

(3) Administer funds in accordance with this chapter, and department guidelines.

(4) Establish a uniform data collection system in compliance with standards and guidelines issued by the state department, and submit audit and fiscal reports as required by the state department.

(5) Coordinate services authorized by this chapter within and between county service providers.

(6) Provide technical assistance to service providers.

(7) Review, and suggest improvements to proposed county school district antitobacco plans. Prepare a letter for the county officer of education setting forth conclusions of the review. Work closely with the county office of education to ensure effective coordination of local school and nonschool antitobacco efforts.

(8) Coordinate activities with other governmental agencies.

(c) The local plans described in paragraph (4) of subdivision (b) shall include all of the following:

(1) A description of the targeted population, including age, race, ethnicity, language, education, income levels, its status as urban or rural, transportation needs, and any other information which the local lead agency determines is relevant.

(2) Local data on smoking and tobacco use among the targeted population.

(3) Goals for how many persons of the targeted population will be reached by health education, how many will participate in a smoking prevention or cessation program, and how many will quit or not start smoking as a result.

(4) A description of the direct services to be provided under the plan, including the services to be provided to the targeted populations enumerated in Section 24161.5 and schoolage youth who do not receive services through public school programs.

(5) Cost estimates for programs identified in the plan.

SEC. 10.1. Section 24167 of the Health and Safety Code is amended to read:

24167. The State Department of Education shall provide the leadership for the successful implementation of this chapter in programs administered by local public and private schools, school districts, and county offices of education. The State Department of Education shall do all of the following:

(a) Create a planning and technical assistance program to carry out its responsibilities under this chapter.

(b) Prepare guidelines for schools, school districts, and school district consortia to follow in the preparation of plans for implementation of antitobacco use programs for schoolage populations. The guidelines shall:

(1) Require the applicant agency to select one or more model program designs and shall permit the applicant to modify the model program designs to take special local needs and conditions into account.

(2) Require the applicant agency to prepare for each target population to be served a description of the service to be provided, an estimate of the number to be served, an estimate of the success rate and a method to determine to what extent goals have been achieved.

(3) Require plan submissions to include a staffing configuration

and a budget setting forth use and distribution of funds in a clear and detailed manner.

(4) Require plan submissions to include a letter prepared by the local lead agency containing comments and recommendations on the plan.

(c) Prepare model program designs and information for local schools, local school districts, consortia, and county offices of education to follow in establishing direct service programs to targeted populations. Model program designs shall, to the extent feasible, be based on studies and evaluations that determine which service delivery systems are effective in reducing tobacco use and are cost-effective. The State Department of Education shall consult with the State Department of Health Services, school districts with existing antitobacco programs, and the University of California in the preparation of model program designs and information.

(d) Provide technical assistance for local schools, local school districts, and county offices of education regarding the prevention and cessation of tobacco use. In fulfilling its technical assistance responsibilities, the State Department of Education may establish a center for tobacco use prevention which shall identify, maintain, and develop instructional materials and curricula encouraging the prevention or cessation of tobacco use. The State Department of Education shall consult with the State Department of Health Services, the University of California, and others with expertise in antitobacco materials or curricula in the preparation of these materials and curricula.

(e) Monitor the implementation of programs which it has approved under this chapter to ensure successful implementation.

(f) Prepare guidelines within 180 days of the effective date of this chapter for a school-based program of outreach, education, intervention, counseling, peer counseling, and other activities to reduce and prevent smoking among schoolage youth.

(g) Assist county offices of education to employ a tobacco use prevention coordinator to assist local schools and local public and community agencies in preventing tobacco use by pupils.

(h) Train the tobacco use prevention coordinators of county offices of education so that they are:

(1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.

(2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.

(3) Able to provide effective technical assistance to schools and school districts.

(i) Establish a tobacco use prevention innovation program effort directed at specific pupil populations.

(j) Establish a competitive grants program to develop innovative programs promoting the avoidance, abatement, and cessation of tobacco use among pupils.

(k) Establish a tobacco-free school recognition awards program.

(*l*) In consultation with the State Department of Health Services, develop a mechanism for the evaluation of programs which receive funds under this chapter and develop the master plan for submission to the Legislature through the Tobacco Education Oversight Committee.

(m) As a condition for receiving funds pursuant to this chapter, the State Department of Education, county offices of education, and local school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.

(n) Develop, in coordination with the county offices of education, a formula which allocates funds for school-based, antitobacco education programs to school districts and county offices of education on the basis of the average daily attendance (ADA) of pupils.

(o) (1) Allocate funds for administration to county offices of education for implementation of Tobacco Use Prevention Programs. The funds shall be allocated according to the following schedule based on average daily attendance in the prior year credited to all elementary, high, and unified school districts, and to all county superintendents of schools within the county as certified by the Superintendent of Public Instruction:

(A) For counties with over 400,000 average daily attendance, thirty cents ($0.30) per average daily attendance.

(B) For counties with more than 100,000 and less then 400,000 average daily attendance, sixty-five cents ($0.65) per average daily attendance.

(C) For counties with more than 50,000 and less than 100,000 average daily attendance, ninety cents ($0.90) per average daily attendance.

(D) For counties with more than 25,000 and less than 50,000 average daily attendance, one dollar ($1) per average daily attendance.

(E) For counties with less than 25,000 average daily attendance, twenty-five thousand dollars ($25,000).

(2) In the event that funds appropriated for this purpose are insufficient, the Superintendent of Public Instruction shall prorate available funds among participating county offices of education.

(p) Allocate funds appropriated by the act adding this subdivision for local assistance to school districts and county offices of education based on average daily attendance reported in the second principal apportionment in the prior fiscal year. Those school districts and county offices of education that receive one hundred thousand dollars ($100,000) or more of local assistance pursuant to this part shall target 30 percent of those funds for allocation to schools that enroll a disproportionate share of students at risk for tobacco use.

(q) (1) Provide that all school districts and county offices of education that receive funding under subdivision (p) make reasonable progress toward providing a smoke-free environment in

school facilities for students and employees.

(2) All school districts and county offices of education that receive funding pursuant to paragraph (1) shall adopt smoke-free campus policies and shall prohibit the use of tobacco on school property no later than July 1, 1996.

SEC. 10.3. Section 24168.4 is added to the Health and Safety Code, to read:

24168.4. Local lead agencies shall be ineligible for awards under the competitive grants program, unless the local lead agency is participant within a consortium of community-based organizations or nonprofit organizations.

SEC. 10.4. Section 24168.5 is added to the Health and Safety Code, to read:

24168.5. In awarding grants under the competitive grants program, the state department shall give preference to all of the following:

(a) Nonprofit or community-based organizations.

(b) Current contractors that meet both of the following requirements:

(1) Have demonstrated effectiveness and capacity in providing tobacco education services.

(2) Serve populations and areas with substantial unmet service needs.

(c) Proposals that provide new or expanded services to geographic areas or target populations underserved, as determined by the state department.

SEC. 10.5. Section 24168.6 is added to the Health and Safety Code, to read:

24168.6. (a) By September 1, 1991, the State Department of Education, in consultation with an advisory committee representing county offices of education that reflects each size classification, shall develop a common reporting format for districts receiving tobacco-use-prevention funds under this chapter.

(b) The format required by subdivision (a) shall be designed to provide annual data on all of the following:

(1) Tobacco-use-prevention education program expenditures.

(2) Tobacco-use-prevention education program instructional and other services to targeted and general student populations.

(3) Tobacco-use-prevention education program staff development and parent training.

(4) Other information determined to be appropriate by the state department.

(c) The information provided by the format required by subdivision (a) shall be in a quantitative format that describes the number of individuals who are served and the number of individuals receiving each type of service.

(d) In addition to the requirements of subdivision (c), the information to be provided by the format required by subdivision (a) shall include, at a minimum, all of the following:

(1) (A) The number of students receiving tobacco-use-prevention instruction and the type of curriculum used.

(B) The format required by subdivision (a) shall show, by category, those students listed for the purpose of subparagraph (A), in each target group listed in Section 24161.5.

(2) Other programmatic activities directly targeted to students, and the number of students participating in each.

(3) The types of staff development or other tobacco-use-prevention training and, by staff classification, the number of staff members receiving such training.

(4) The number of parents receiving training and the types of training provided.

(5) The types of programs geared toward community involvement and the number of people served by each type.

(6) The types of services provided to target populations which are in addition to services provided to other students.

(7) The number and size of schools which are tobacco-free.

(8) The ways in which money appropriated for the purpose of this chapter has been spent, including the following categories: salaries, including, but limited to, personnel, and substitute teacher costs; benefits; travel; consultant services; operating expenses, including, but not limited to, curriculum and instructional materials, supplies, other; capital outlay; and indirect costs.

(e) (1) Each county office of education shall provide to the State Department of Education an annual report on district expenditures and services within its respective county pursuant to the common reporting format developed by the State Department of Education.

(2) During the 1991–92 fiscal year, the county shall provide both a midyear and annual report of the information required in paragraph (8) of subdivision (d). In future years the report shall be made only on an annual basis.

(f) (1) For the 1991–92 fiscal year and fiscal years thereafter, the State Department of Education shall report to the Legislature on local district expenditures and services statewide.

(2) The State Department of Education shall make the report required by paragraph (1) on October 1, 1991, and on April 1, 1992.

(3) For those fiscal years after the 1991–92 fiscal year, the state department shall make the report required by paragraph (1) on or before October 1 of each year.

SEC. 10.6. Section 24168.7 is added to the Health and Safety Code, to read:

24168.7. (a) The State Department of Education shall change the design of the Drug, Alcohol, and Tobacco Education evaluation, as funded in part by money allocated for the purposes of this chapter, pursuant to subdivision (b).

(b) The evaluation, as redesigned pursuant to subdivision (a) shall determine all of the following:

(1) The extent to which the tobacco use prevention education program has been implemented in school districts.

(2) The impact of the tobacco use prevention education programs on knowledge, attitudes, and behavior of the students.

(3) The extent to which students, by grade level and risk group, have been exposed to the program.

(c) As a part of the overall evaluation effort, the State Department of Education shall arrange for a statistically valid biennial, school-based survey that assess both of the following:

(1) Attitudes toward tobacco.

(2) Tobacco use prevalence rates among students.

(d) (1) In order to assess exposure of, and impact on, the typical student, the evaluation required by subdivision (c) shall be conducted using a random sample of school districts and students.

(2) In order to ensure a statistically valid random sample, school districts shall, as a condition of receiving money pursuant to this chapter, agree to participate in the evaluation if chosen by the evaluator.

(e) (1) The State Department of Education shall provide for the establishment of the following:

(A) A state advisory committee, to be comprised of all of the following:

(i) A representative of the State Department of Education.

(ii) A representative of the Office of Criminal Justice Planning.

(iii) A representative of the Legislative Analyst.

(iv) A representative of the State Department of Alcohol and Drug Programs.

(v) A representative of the State Department of Health Services.

(vi) A representative of the Department of Finance.

(vii) A representative of the Tobacco Education Oversight Committee.

(B) (1) A technical advisory subcommittee of the DATE evaluation state advisory committee established pursuant to subparagraph (A), that shall be comprised of experts in the research and evaluation of prevention programs.

(2) The committee established pursuant to paragraph (1) shall review the evaluation design and make recommendations to the state advisory committee.

SEC. 10.7. Section 24168.8 is added to the Health and Safety Code, to read:

24168.8. (a) Each school district shall make all of the following services available to every pregnant minor and minor parent enrolled in the school district:

(1) Referral to perinatal and related support services.

(2) Outreach services and assessment of smoking status.

(3) Individualized counseling and advocacy services.

(4) Motivational messages.

(5) Cessation services, if appropriate.

(6) Incentives to maintain a healthy lifestyle.

(7) Followup assessment.

(8) Maintenance and relapse prevention services.

(b) Where appropriate, those services listed in subdivision (a) shall be integrated with existing programs for pregnant minors and minor parents.

(c) Each district plan submitted in application for funds under this chapter shall include a description of the availability of the services required by this section.

SEC. 10.8. Section 24168.9 is added to the Health and Safety Code, to read:

24168.9. (a) The state department shall annually set aside three million dollars ($3,000,000) appropriated for the purposes of the competitive grants program established pursuant to this chapter in order to support efforts to link the statewide media campaign to local communities and to provide regional public and community relations or media initiatives.

(b) Local community initiatives may include, but are not limited to, all of the following:

(1) Encouraging volunteer efforts.

(2) Local media programming.

(3) Provision of assistance in, and facilitation of, public and community events.

(c) The efforts described in subdivision (b) shall be directed principally to the target communities described in Section 24161.5.

(d) Regular application procedures for competitive grants under this chapter shall apply to applications for grants under this section.

(e) Funds awarded pursuant to this section shall be awarded in the same manner as other competitive grants under this chapter.

SEC. 11. Section 24169.8 of the Health and Safety Code is amended to read:

24169.8. This chapter shall remain operative only until July 1, 1994, and 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. 11.1. Part 6.3 (commencing with Section 12695) is added to Division 2 of the Insurance Code, to read:

PART 6.3. ACCESS FOR INFANTS AND MOTHERS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Article 1. General

12695. This part shall be known and may be cited as the Access for Infants and Mothers Program.

12695.02. For purposes of this part, the definitions contained in this article shall govern the construction of this part, unless the context requires otherwise.

12695.04. "Advisory panel" means the Major Risk Medical Insurance Board Access for Infants and Mothers Advisory Panel created pursuant to Section 12696.1.

12695.06. "Applicant" means an individual who applies for coverage for perinatal and infant care through the program.

12695.08. "Board" means the Major Risk Medical Insurance Board created pursuant to Section 12710.

12695.10. "Case management" means the management of all physician services, both primary and specialty, and arrangements for hospitalization, post-discharge care, and followup care.

12695.12. "Comprehensive primary care services" include, but are not limited to, all of the following:

(a) Preventive, screening, diagnostic, and treatment services furnished directly by a licensed clinic, either onsite or by formal written contract, on a case-managed basis, to patients who remain less than 24 hours at the clinic for an illness or injury, advice, counseling, outreach, and translation as needed.

(b) Physician services.

(c) Emergency first aid, perinatal, obstetric, radiology, laboratory, and nutrition services.

(d) Services of advanced practice nurses or mid-level practitioners who are authorized to perform any of the services listed in this subdivision within the scope of their licensure.

(e) Health education, including education regarding the harmful results of tobacco use, and information and referral services.

12695.14. "Fund" means the Perinatal Insurance Fund.

12695.16. "Health education services relating to tobacco use" means tobacco use prevention and education services, including, when appropriate, tobacco use cessation services, in accordance with protocols established by the board in coordination with the Tobacco Control Section of the State Department of Health Services.

12695.18. "Participating health plan" means any of the following plans which are lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health care services under insurance policies or contracts, medical and hospital service arrangements, or membership contracts, in consideration of premiums or other periodic charges payable to it, and that contracts with the program to provide coverage to program subscribers:

(a) A private insurer holding a valid outstanding certificate of authority from the Insurance Commissioner.

(b) A nonprofit hospital service plan qualifying under Chapter 11a (commencing with Section 11491) of Part 2 of Division 2.

(c) A nonprofit membership corporation lawfully operating under the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of the Corporations Code).

(d) A health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code.

(e) A county or a city and county, in which case no license or approval from the Department of Insurance or the Department of Corporations shall be required to meet the requirements of this part.

(f) A comprehensive primary care licensed community clinic that is an organized outpatient freestanding health facility and is not part

of a hospital that delivers comprehensive primary care services, in which case, no license or approval from the Department of Insurance or the Department of Corporations shall be required to meet the requirements of this part.

12695.20. "Program" means the Access for Infants and Mothers Program.

12695.22. "Subscriber" means an individual who is eligible for and enrolled in the program.

12695.24. "Subscriber contribution" means the cost to the subscriber to participate in the program.

CHAPTER 2. POWERS AND DUTIES OF THE BOARD

Article 1. Administration

12696. The board shall administer the program.

12696.05. The board may do all of the following:

(a) Determine eligibility criteria for the program. These criteria shall include the requirements set forth in Section 12698.

(b) Determine the eligibility of applicants.

(c) Determine when subscribers are covered and the extent and scope of coverage.

(d) Determine subscriber contribution amounts schedules. Subscriber contribution amounts shall be indexed to the federal poverty level and shall not exceed 2 percent of a subscriber's annual gross family income.

(e) Provide coverage through participating health plans or through coordination with other state programs, and contract for the processing of applications and the enrollment of subscribers. Any contract entered into pursuant to this part shall be exempt from any provision of law relating to competitive bidding, and shall be exempt from the review or approval of any division of the Department of General Services. The board shall not be required to specify the amounts encumbered for each contract, but may allocate funds to each contract based on projected and actual subscriber enrollments in a total amount not to exceed the amount appropriated for the program.

(f) Authorize expenditures from the fund to pay program expenses which exceed subscriber contributions, and to administer the program as necessary.

(g) Develop a promotional component of the program to make Californians aware of the program and the opportunity that it presents.

(h) Issue rules and regulations as necessary to administer the program. Until December 31, 1992, any rules and regulations issued pursuant to this subdivision may be adopted as emergency regulations in accordance with the Administrative Procedure Act (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. The regulations shall become effective immediately upon filing the with Secretary of State.

(i) Exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed by this part.

12696.10. The board, in coordination with the Tobacco Control Section of the State Department of Health Services, shall develop protocols relating to health education for tobacco use. These protocols shall include, but not be limited to, all of the following:

(a) Referral to perinatal and related support services.

(b) Outreach services and assessment of smoking status.

(c) Individualized counseling and advocacy services.

(d) Motivational messages.

(e) Cessation services, if appropriate.

(f) Incentives to maintain a healthy lifestyle.

(g) Followup assessment.

(h) Maintenance and relapse prevention services.

12696.15. The board shall administer the program in a manner that ensures that program expenditures do not exceed amounts available in the fund.

12696.20. The board shall coordinate with other state agencies, as appropriate, to help ensure continuity of health care services.

12696.25. (a) No later than January 1, 1994, the board shall submit to the Governor and the Legislature a report that evaluates the performance of the program.

(b) The report required by subdivision (a) shall cover the first two years of the operation of the program and shall include all of the following:

(1) A description of the demographic characteristics of program subscribers.

(2) An analysis of the program's ability, as demonstrated in the first two years in which coverage is offered, to achieve the following goals:

(A) A reduction in the percentage of uninsured births in the state.

(B) A reduction in the percentage of women who give birth in California without receiving adequate prenatal care, with statistics on the trimester in which these women began to receive their prenatal care.

(C) A reduction in the amount of bad debt and charity care related to maternity services that is reported by hospitals and physicians.

(D) A reduction in the incidence in negative delivery and birth outcomes of pregnant women covered under the program who give birth in California.

(3) Comparisons of the delivery and birth outcomes of program subscribers to the delivery and birth outcomes of women who are uninsured for prenatal and delivery services, and to women who

receive services through the Medi-Cal program.

(4) Comparisons between the different service delivery systems of the delivery and birth outcomes of program subscribers.

(5) Evaluation and report annually, beginning January 1, 1993, to the extent available, on the incidence of program subscribers whose employers eliminate or alter maternity care coverage in the 12 months prior to when a subscriber enrolls.

(6) A comparison of costs per case, including administrative costs and eligibility processing times, and birth outcomes between this program and the state-only Medi-Cal program for pregnant women and infants where incomes are between 185 and 200 percent of the federal poverty line.

(7) A comparison of the access to services between the program implemented pursuant to this part and the state-only Medi-Cal program for pregnant women and infants whose incomes are between 185–200 percent of the official federal poverty line.

(8) Supply data on the cases under the program, including the month in which continuous prenatal care starts. This data shall be compared, to the extent available, with the whole population, the Medi-Cal population, and other uninsured women.

Article 2. Advisory Panel

12696.5. (a) The board shall appoint a seven-member advisory panel to advise the board, the chairman of which shall serve as an ex officio, nonvoting, member of the board. The panel shall be appointed and ready to perform its duties by September 1, 1991.

(b) The membership of the advisory panel shall be composed of all of the following:

(1) One physician and surgeon who is board certified in the area of gynecology and obstetrics.

(2) One physician and surgeon who is board certified in pediatrics.

(3) One physician and surgeon who is board certified in the area of family practice.

(4) One representative from the beneficiary population.

(5) One representative from a general acute care hospital with a full complement of obstetrical services.

(6) One advanced practice nurse serving in a maternal and child health capacity.

(7) One representative from a licensed nonprofit primary care clinic or from a county clinic.

(c) The panel shall elect, from among its members, its chairman.

(d) The panel shall have all of the following powers and duties:

(1) To advise the board on all policies, regulations, operations, and implementation of the Access for Infants and Mothers Program.

(2) To consider all written recommendations of the panel and respond in writing when the board rejects the advice of the panel.

(3) To meet at least quarterly, unless deemed unnecessary by the

chair.

(e) The members of the panel shall be reimbursed for all necessary travel expenses associated with the activities of the panel.

(f) Those members of the panel who are economically unable to meet panel responsibilities shall be provided a per diem compensation.

CHAPTER 3. PARTICIPATING HEALTH PLANS

12696.7. (a) The board shall contract with a variety of health plans and types of health care service delivery systems in order to offer subscribers a choice of plans, providers, and types of service delivery.

(b) Participating health plans contracting with the board pursuant to this part shall provide benefits or coverage to subscribers only as determined by the board pursuant to subdivision (b) of Section 12696.05.

(c) Participating health plans shall not be required to comply with any other provisions of law or regulations relating to the provision of benefits under this part for subscribers enrolled in the program.

12697. The board shall negotiate or arrange for stop-loss insurance coverage that limits the program's fiscal responsibility for the total costs of health services provided to program subscribers, or arrange for participating health plans to share or assume the financial risk for a portion of the total cost of health care services to program subscribers, or both.

12697.10. (a) The board shall include, within contracts negotiated pursuant to this part, terms regarding the cancellation of the contracts, and may cancel any contract negotiated pursuant to this part with any participating health plan as provided for in the contract.

(b) The board shall provide for the transfer of coverage of any subscriber to another participating health plan if a contract with any participating health plan under which the subscriber receives coverage is canceled or not renewed.

12697.15. (a) Each participating health plan contracting with the board pursuant to this part shall provide health education services related to tobacco use to all program participants.

(b) The education activities required by subdivision (a) shall include all of the following:

(1) Dissuading persons from beginning to smoke.

(2) Encouraging smoking cessation.

(3) Providing information on the health effects of tobacco use on the user, children, and nonsmokers.

CHAPTER 4. SUBSCRIBER ELIGIBILITY AND ENROLLMENT

Article 1. Eligibility and Coverage

12698. To be eligible to participate in the program, a person shall meet all of the following requirements:

(a) Be a resident of the state for at least six continuous months prior to application.

(b) Have a household income that does not exceed 250 percent of the official federal poverty line unless the board determines that the program funds are adequate to serve households above that level.

(c) Pay an initial subscriber contribution of not more than fifty dollars ($50), and agree to the payment of the complete subscriber contribution.

12698.05. A person shall not be eligible to participate in the program if the person is a Medi-Cal or Medicare beneficiary at the time of application.

12698.06. A person shall not be eligible to participate in the program for covered services under this part for services that are covered through private insurance arrangements at the time of application.

12698.10. Coverage provided under this part may be offered to any of a subscriber's children at a monthly premium sufficient to fully cover the cost of coverage for these children, as determined by the board.

12698.15. Subscribers shall not be disenrolled for failure to pay subscriber contributions. The board may impose or contract for collection actions to collect unpaid subscriber contributions.

12698.20. (a) If a subscriber is dissatisfied with any action, or failure to act, which has occurred in connection with a participating plan's coverage, the subscriber may appeal to the board and shall be accorded an opportunity for a fair hearing. Hearings may be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The program may place a lien on compensation or benefits, recovered or recoverable by a subscriber from any party or parties responsible for the compensation or benefits, for which benefits have been provided under a policy issued under this part.

12698.25. Services that would be covered under the program that are provided to pregnant women who, after receiving those services, are subsequently determined to be eligible for coverage under this part may be reimbursed as determined by the board. In no case shall services received prior to 40 days before a woman's date of application be eligible for reimbursement.

12698.30. (a) At a minimum, coverage shall be provided to subscribers during one pregnancy, and for 60 days thereafter, and to children less than two years of age who were born of a pregnancy covered under this program.

(b) Coverage provided pursuant to this part shall include, at a minimum, those services required to be provided by health care service plans approved by the Secretary of Health and Human Services as a federally qualified health care service plan pursuant to

Section 417.101 of Title 42 of the Code of Federal Regulations.

(c) Coverage shall include health education services related to tobacco use.

(d) Medically necessary prescription drugs shall be a required benefit in the coverage provided under this part.

Article 2. Unfair Competition and Labor Practices

12698.50. (a) (1) It shall constitute unfair competition for purposes of Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code for an insurer, an insurance agent or broker, or an administrator, as defined in Section 1759, to refer an individual employee or employee's dependent to the program, or arrange for an individual employee or employee's dependent to apply to the program, for the purpose of separating that employee or employee's dependent from group health coverage provided in connection with the employee's employment.

(b) Any employee described in subdivision (a) shall have a personal right of action to enforce subdivision (a).

12698.52. It shall constitute an unfair labor practice contrary to public policy, and enforceable under Section 95 of the Labor Code, for any employer to refer an individual employee or employee's dependent to the program, or to arrange for an individual employee or employee's dependent to apply to the program, for the purpose of separating that employee or employee's dependent from group health coverage provided in connection with the employee's employment.

12698.54. It shall constitute an unfair labor practice contrary to public policy and enforceable under Section 95 of the Labor Code for any employer to change the employee-employer share-of-cost ratio or to make any other modification of maternity care coverage for employees or employees' dependents that results in the enrollment of the employees or employees' dependents in the program established pursuant this part.

12698.56. For purposes of this article, "group health coverage" includes any nonprofit hospital service plan, health care service plan, self-insured employee welfare benefit plan, or disability insurance providing medical or hospital benefits.

CHAPTER 5. PERINATAL INSURANCE FUND

12699. (a) The Perinatal Insurance Fund is hereby created in the State Treasury.

(b) Only funds appropriated from the Cigarette and Tobacco Products Surtax Fund shall be deposited in the fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated, without regard to fiscal years, to the board, for the purposes specified in this part.

12699.05. (a) The board shall authorize the expenditure of

money in the fund to cover program expenses, including program expenses that exceed subscriber contributions.

(b) From money appropriated by the Legislature to the fund, the board may expend sufficient funds for operating expenses incurred in carrying out this part.

(c) The board shall develop and utilize all appropriate cost containment measures to maximize the coverage offered under the program.

12699.10. The board shall establish a reserve which is sufficient to prudently operate the program.

CHAPTER 6. OPERATION OF PROGRAM

12699.50. This part shall remain operative only until July 1, 1994, 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. 11.2. Section 12710 of the Insurance Code is amended to read:

12710. The California Major Risk Medical Insurance Program is hereby created in the Business, Transportation and Housing Agency. The program shall be managed by the Major Risk Medical Insurance Board. The board shall consist of seven members, five of whom shall be appointed as follows:

The Governor shall appoint three members, subject to confirmation by the Senate, and shall designate one of these appointees as chair of the board. The Senate Committee on Rules shall appoint one member. The Speaker of the Assembly shall appoint one member. The terms of appointment shall be four years.

The Secretary of Business, Transportation, and Housing, or his or her designee, and the Secretary of Health and Welfare, or his or her designee, shall serve on the board as ex officio, nonvoting members.

The board shall appoint an executive director for the board, who shall serve at the pleasure of the board. The executive director shall receive the salary established by the Department of Personnel Administration for exempt officials. The executive director shall administer the affairs of the board as directed by the board, and shall direct the staff of the board. The executive director may appoint, with the approval of the board, staff necessary to carry out the provisions of this part.

SEC. 11.4. Section 12725.5 of the Insurance Code is amended to read:

12725.5. (a) It shall constitute unfair competition for purposes of Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code for an insurer, an insurance agent or broker, or an administrator, as defined in Section 1759, to refer an individual employee, or his or her dependents, to the program, or arrange for an individual employee, or his or her dependents, to apply to the program, for the purpose of separating

that employee, or his or her dependents, from group health coverage provided in connection with the employee's employment.

(b) It shall constitute an unfair labor practice contrary to public policy and enforceable under Section 95 of the Labor Code for any employer to refer an individual employee, or his or her dependents, to the program, or to arrange for an individual employee, or his or her dependents, to apply to the program, for the purpose of separating that employee, or his or her dependents, from group health coverage provided in connection with the employee's employment.

(c) As used in this section, "group health coverage" includes any nonprofit hospital service plan, health care service plan, self-insured employee welfare benefit plan, or disability insurance providing medical or hospital benefits.

SEC. 11.5. Section 12730 of the Insurance Code is amended to read:

12730. Health coverage secured through the program shall permit a covered dependent of a subscriber to elect to continue the same coverage upon the death of the subscriber, or upon the subscriber becoming eligible for Medicare Part A and Part B.

SEC. 11.6. Section 12739 of the Insurance Code is amended to read:

12739. There is hereby created in the State Treasury a special fund known as the Major Risk Medical Insurance Fund which is, notwithstanding Section 13340 of the Government Code, continuously appropriated to the board for the purposes specified in Section 12739.1.

After June 30, 1991, the following amounts shall be deposited annually in the Major Risk Medical Insurance Fund:

(1) Eighteen million dollars ($18,000,000) from the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund.

(2) Eleven million dollars ($11,000,000) from the Physician Services Account in the Cigarette and Tobacco Products Surtax Fund.

(3) One million dollars ($1,000,000) from the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund.

SEC. 12. Section 14148.5 of the Welfare and Institutions Code is amended to read:

14148.5. (a) State funded perinatal services shall be provided under the Medi-Cal program to pregnant women and state funded medical services to infants up to one year of age in families with incomes above 185 percent, but not more than 200 percent of the federal poverty level, in the same manner that these services are being provided to the Medi-Cal population, including eligibility requirements and integration of eligibility determinations and payment of claims, except the assets of the family shall not be considered in making the eligibility determination.

(b) Services provided under this section shall not be subject to any

share-of-cost requirements.

(c) (1) The department, in implementing the Medi-Cal program and public health programs, in coordination with the Major Risk Medical Insurance Programs Access for Infants and Mothers component shall provide for outreach activities in order to enhance participation and access to perinatal services. Funding for these outreach activities shall be made available from the funds appropriated for purposes of this section.

(2) Those outreach activities required by paragraph (1) shall be targeted toward both Medi-Cal and non-Medi-Cal eligible high risk or uninsured pregnant women and infants. Outreach activities may include, but not be limited to, all of the following:

(A) Education of the targeted women on the importance of early prenatal care and referral to Medi-Cal and other programs.

(B) Information provided through toll-free telephone numbers.

(C) Recruitment and retention of perinatal providers.

(d) This section shall remain operative only until July 1, 1994, and 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. 13. Section 14148.6 of the Welfare and Institutions Code is amended to read:

14148.6. (a) The department shall, to the extent permitted by federal law, integrate the following into a single maternity program:

(1) The comprehensive perinatal services program required by Section 14134.5.

(2) The Community-Based Perinatal System provided pursuant to Article 2.4 (commencing with Section 283) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(b) It is the intent of the Legislature that any federal funds received pursuant to Title 5 of the federal Social Security Act, Subchapter 5 (commencing with Section 701) of Chapter 7 of Title 42 of the United States Code, or state General Fund moneys which are currently used for perinatal services for women between 185 and 200 percent of the federal poverty level, and which will no longer be needed for these services, shall be redirected to other high priority maternal and child health programs.

(c) This section shall remain operative only until July 1, 1994, and 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. 14. Article 4.8 (commencing with Section 14148.9) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 4.8. Perinatal Outreach, Coordination, and Expansion Services

14148.9. (a) The Legislature finds and declares that there is a

strong statistical relationship between early entry into prenatal care and healthy birth outcomes. An investment in early intervention is highly cost-effective and prevents untold suffering.

(b) It is the intent of the Legislature that the goals of the program established pursuant to this article, in combination with other programs for pregnant women and children shall be:

(1) To improve access to and quality of prenatal care by making existing programs serving poor women more accessible through outreach, coordination, and removal of barriers to care.

(2) To combine efforts with other programs to measurably reduce the number of women who smoke, use drugs, or engage in other unhealthy practices during pregnancy.

(c) (1) In order to achieve these goals, it is the intent of the Legislature to improve and coordinate existing programs for pregnant women and infants and to remove barriers to care with an intense focus on women who are at high risk of delivering a low or high birth weight baby or a baby which will suffer from major health problems or disabilities.

(d) The program implemented pursuant to this article shall focus on those target populations that are comprised of pregnant high risk women or potentially pregnant teenagers, pregnant women and women of childbearing age who are likely to become pregnant who smoke, consume alcoholic beverages, or use controlled substances, and Black, Hispanic, Native American, and Asian-Pacific Island women who are pregnant or of childbearing age, and uninsured women of childbearing age.

14148.91. (a) No later than March 15 of each year, the department shall report to the appropriate committees of the Legislature and the Governor, on a statewide and county-by-county basis, the most recent data on all of the following:

(1) The number of live births to women receiving prenatal care in the first trimester, in the second trimester and in the third trimester, as well as an analysis of barriers to care to the extent available.

(2) The number of maternal deaths by race and ethnic group.

(3) The number of live births by county, race, and ethnic group.

(4) The number of fetal deaths of infants over 20 weeks gestation by race and ethnic group.

(5) The number of infant deaths by county, race, and ethnic group from birth to 28 days postpartum.

(6) The number of infant deaths by county, race, and ethnic group from 29 days postpartum to one year.

(7) The number of live births under 2500 grams and over 4500 grams by race and ethnic group.

(8) The number of live births under 1500 grams by race and ethnic group.

(9) The number of women eligible for prenatal, delivery, or postpartum care under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code in the past

year.

(10) The source of payment for prenatal care and delivery.

(b) No later than March 15 of each year, the department shall report to the appropriate committees of the Legislature and the Governor on a statewide basis, to the extent data are available, all of the following:

(1) The number of infants eligible for services under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(2) The number of newborn babies screened or diagnosed with Fetal Alcohol Syndrome.

(3) The number of babies born with drug dependencies, HIV infection, and sexually transmitted diseases.

(4) Whether the mother smoked, consumed alcoholic beverages, or used controlled substances without a prescription, during pregnancy.

(c) (1) The department, in consultation with the Legislative Analyst, shall contract, using appropriate state administrative funds, with an appropriate entity for a one-time, statistical survey of the income of mothers, utilizing a statistically valid sample linked to the birth certificate.

(2) The State Department of Health Services shall not use more than one hundred thousand dollars ($100,000) of administrative funds for the survey required by paragraph (1).

(3) The income information required by paragraph (1) shall be categorized according to the following income categories:

(A) Persons whose family income does not exceed 150 percent of the official federal poverty line.

(B) Persons whose family income exceeds 150 percent of the official federal poverty line but does not exceed 185 percent of the official federal poverty line.

(C) Persons whose family income exceeds 185 percent of the official federal poverty line but does not exceed 200 percent of the official federal poverty line.

(D) Persons whose family income exceeds 200 percent of the official federal poverty line but does not exceed 225 percent of the official federal poverty line.

(E) Persons whose family income exceeds 225 percent of the official federal poverty line.

(F) Persons whose family income exceeds 250 percent of the official federal poverty line level does not exceed 300 percent o the official federal poverty line.

(d) The department shall, in addition to the information required by subdivision (a), report on trends in private insurance coverage of maternity care, to the extent the data is available.

14148.95. (a) (1) Under the direction of a county's maternal and child health director, counties that receive funds pursuant to Section 24164.5 shall provide perinatal program coordination, patient advocacy, and expanded access services in each county for

low-income pregnant women, including all target groups listed in Section 14148.9.

(2) It is the intent of the Legislature that counties will expend at least one-third of the funds received pursuant to Section 24164.5 for the purposes of this section.

(3) Counties that contract with the department for the provision of public health services may contract with the department for the services described in paragraph (1).

(b) Each county that wishes to participate pursuant to this section shall develop a supplement to their local plan pursuant to Section 24164.5 of the Health and Safety Code. The county's plan supplement shall include all of the following information:

(1) The county's perinatal statistics.

(2) A description of current outreach, coordination, antismoking, antialcohol, antidrug, and other related program activities, including those funded through the Cigarette and Tobacco Products Surtax Fund, relating to pregnant women and women of childbearing age in the county.

(3) A description of the additional activities and services to be undertaken, and the number of women in each target subgroup which the county proposes to reach with these funds.

(4) The proposed measures of success and a description of how the county's overall effort, and this particular effort, will be evaluated.

(c) All counties shall maintain the following services, supported by this program or from other sources, to the extent funds are available.

(1) A coordinated and integrated system providing early outreach, pregnancy screening, patient advocacy, targeted case management, health education, and referral to drug and alcohol treatment and perinatal care services to pregnant women from all target groups.

(2) (A) A patient advocacy and education component that will reach women from all target populations at least six months prior to, and in the earliest stages of pregnancy, and provide information, health screenings, and assistance in obtaining appropriate services.

(B) Patient advocates may arrange for prenatal care for eligible pregnant women.

(d) In developing and implementing the program described in this section, each county shall obtain the involvement and participation of local community organizations, including clinics and schools with special expertise in the provision of health education, perinatal care, and alcohol and drug treatment.

14148.96. (a) Health education services shall be an integral part of each county's program pursuant to Section 14148.85 to provide coordinated services to pregnant and postpartum women and other target groups specified in Section 14148.9.

(b) The Tobacco Control Section of the department, in collaberation with the State Department of Alcohol and Drug

Programs, and programs providing nutrition services to women during the perinatal period, shall develop protocols, procedures, instructional materials, inservice training, data collection formats and requirements, and reimbursement schedules where applicable, for the provision of tobacco education to pregnant and postpartum women and other target groups specified in Section 14148.9.

(c) Services may be funded through the Health Education Account in the Tobacco Surtax Fund for purposes of this article, including, but are not limited to, all of the following:

(1) Outreach.

(2) Assessment of smoking status and exposure to secondhand smoke.

(3) Development and implementation of an individualized strategy to prevent smoking and exposure to smoke during pregnancy and the postpartum period, including counseling and advocacy services, public health nursing services, provision of motivational messages, cessation services, nonmonetary incentives to maintain a healthy lifestyle, and other cessation or tobacco use prevention activities, including child care or transportation in conjunction with those activities.

(4) Provision of followup, reassessment, maintenance, and relapse prevention services.

(d) Funds from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund may be used in combination with funds from other sources if the services provided to each person are documented and there is an auditable connection to services.

(e) The services provided pursuant to this section shall expand and enhance the health education services provided under the comprehensive perinatal services program and shall be coordinated with other services provided to pregnant women and target groups, pursuant to Section 14148.9.

(f) No funds from the Health Education Account in the Cigarette and Tobacco Products Surtax Fund may be used in a manner that violates paragraph (1) of subdivision (b) of Section 30122 of the Revenue and Taxation Code.

14149.7. For purposes of this article, "outreach" includes, but is not limited to, coordinated local systems of care providing pregnancy testing, screening for risk factors, care coordination, referral to appropriate services such as alcohol and drug treatment, transportation, childcare, patient incentives, and assurance of continuous prenatal care including recruitment and retention of providers.

14148.97. This article shall remain operative only until July 1, 1994, 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. 15. Section 16910 of the Welfare and Institutions Code is amended to read:

16910. (a) (1) Funds appropriated for the purposes of this

chapter shall be used for the development and implementation of county medically indigent care reporting systems which will provide data on all persons served and services provided pursuant to Section 17000.

(2) Funds appropriated for the purposes of this chapter shall be available for implementation of county medically indigent care reporting systems for the 1989–90 and 1990–91 fiscal years and for the first six months of the 1991–92 fiscal year.

(b) Use of these moneys shall be limited to one-time costs for equipment purchases, system design and development, and necessary system testing and implementation costs.

(c) Counties shall complete implementation of the medically indigent care reporting system by July 1, 1991, unless an amendment to its existing implementation plan and timeline is approved by the department that ensures full implementation of the county's medically indigent reporting system no later than December 31, 1991.

SEC. 15.5. Section 16915 of the Welfare and Institutions Code is amended to read:

16915. (a) Any county receiving an allocation pursuant to this part shall, at a minimum, report to the department indigent health care program demographic, expenditure, and utilization data, in a manner that will provide an unduplicated count of users, as follows:

(1) The following patient demographic data:

(A) Age.

(B) Sex.

(C) Ethnicity.

(D) Family size.

(E) Monthly income.

(F) Source of income, according to the following categories:

(i) Disability income.

(ii) Employment.

(iii) Retirement.

(iv) General assistance.

(v) Other.

(G) Type of employment, according to the following categories:

(i) Agriculture.

(ii) Labor and production.

(iii) Professional and technical.

(iv) Service.

(v) Nonemployed.

(H) Payer source, according to the following categories:

(i) Private insurance.

(ii) County program.

(iii) Self-pay.

(iv) Other.

(I) ZIP code of residence.

(2) Indigent health care expenditure data, including all of the following:

(A) Inpatient hospital services, according to the following categories:

(i) County hospital.

(ii) Contract hospital.

(iii) University teaching hospital.

(iv) Other, noncontract hospital.

(v) Diagnostic category, as defined by the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM).

(B) Outpatient services, according to the following categories:

(i) Hospital outpatient.

(ii) Free standing community clinic.

(iii) Primary care physician.

(iv) Nonemergency services rendered in an emergency room environment.

(v) Type of service.

(C) Emergency room services, according to the following categories:

(i) Emergency services.

(ii) Emergency services which result in a hospital admission.

(iii) Emergency services, which are rendered in a noncounty, noncontract hospital and result in a transfer of the patient to a county or contract hospital.

(3) Health care utilization data.

(A) Inpatient hospital services, according to the following categories:

(i) County hospital days and discharges.

(ii) Contract hospital days and discharges.

(iii) University teaching hospital days and discharges.

(iv) Other, noncontract hospital days and discharges.

(B) Outpatient services, according to the following categories:

(i) Hospital outpatient visits.

(ii) Free standing community clinic visits.

(iii) Primary care physician visits.

(iv) Visits to a hospital emergency room for nonemergency services.

(C) Emergency room services, according to the following categories:

(i) Visits for emergency services in a county hospital.

(ii) Visits for emergency services in a contract hospital.

(iii) Visits for emergency services in a noncounty, noncontract hospital.

(iv) Visits for emergency services which result in an admission in a county hospital.

(v) Visits for emergency services which result in an admission to a contract hospital.

(vi) Visits for emergency services which result in an admission to a noncounty, noncontract hospital.

(D) Visits for emergency services which are rendered in a

noncounty, noncontract hospital and result in a transfer of the patient to a county or contract hospital.

(4) Geographic location of rendered services.

(A) Inpatient hospital services, according to the following categories:

(i) County hospital.

(ii) Contract hospital.

(iii) University teaching hospital.

(iv) Other, noncontract hospital.

(B) Outpatient services, according to the following categories:

(i) Hospital outpatient.

(ii) Free standing community clinic.

(iii) Primary care physician.

(iv) Nonemergency services rendered in an emergency room environment.

(C) Emergency room services.

(5) Expenditure and utilization data for persons with acquired immune deficiency syndrome (AIDS) and AIDS-related complex.

(A) Total number of patients.

(B) Number of inpatient users.

(C) Number of discharges.

(D) Total inpatient days.

(E) Total inpatient expenditures.

(F) Number of outpatient users.

(G) Number of outpatient visits.

(H) Total outpatient expenditures.

(I) Number of emergency room users.

(J) Number of emergency room visits.

(K) Total emergency room expenditures.

(b) Counties shall report demographic, cost and utilization data on indigent health care to the department as follows:

(1) A quarterly report no later than 90 days after the last day of the quarter to be reported.

(2) An estimated annual report no later than 180 days after the last day of the year to be reported.

(3) (A) An actual annual report no later than 360 days after the last day of the year to be reported.

(B) Counties shall maintain all patient specific data collected through the medically indigent care reporting system for a period of 24 months after the last day of the fiscal year for which the data was collected.

(4) Reports shall be submitted on machine readable media, on 5¼ inch or 3½ inch diskette, in the format specified by the department.

SEC. 16. 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, 1994, 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, 1994; for the Hospital Services Account in the fund, for the period commencing April 1, 1990, to June 30, 1994, 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, 1994, 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, 1994, 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) (1) Physicians shall provide data under subdivision (b) for

services provided in a hospital to the extent the information is available from the hospital.

(2) Physicians shall provide data under subdivision (b) for services performed in an office setting on 5 percent of patients for whom payment is received pursuant to Article 3.5 (commencing with Section 16951) of Chapter 5.

SEC. 16.3. 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 Section 16945.

(b) (1) The office shall determine each county's 1989–90 fiscal year 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 for the fiscal years after the 1989–90 fiscal year by using the data from the quarterly reports for the calendar year preceding the fiscal year, as adjusted by the office and existing on the statewide file on April 15 immediately preceding the fiscal year.

(3) 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.

(4) The amounts calculated pursuant to paragraphs (2) and (3) 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 (4) 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. 16.5. Section 16934.5 of the Welfare and Institutions Code is amended to read:

16934.5. (a) For the 1990–91 fiscal year, each county may enter into a contract with the department in which the department agrees to assume the responsibility to pay for the cost of treatment service provided on or after July 1, 1990, to children pursuant to Section 16934.

(1) Each county intending to contract with the department shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than June 1, 1990. For each fiscal year thereafter a notice adopted by the board of supervisors shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect, in accordance with procedures established by the department. As a condition of

contracting with the department, the department may establish uniform standards, forms, and procedures for the processing and payment of claims for treatment services.

(2) (A) Each county contracting with the department pursuant to this subdivision for the 1991–92 fiscal year that has previously contracted with the department pursuant to this section shall agree that the department shall retain 10 percent of the allocation it would otherwise have received under this chapter. The department shall transfer amounts retained on a monthly basis to the CHDP Treatment Account established in subdivision (b).

(B) Any county that contracts with the department pursuant to this subdivision during the 1991-92 fiscal year that has not previously contracted with the department pursuant to this section shall agree that the department shall retain 20 percent of the allocation the county would otherwise have received under this chapter for that portion of the year for which it contracts under this section.

(3) In future fiscal years the percentage retained by the department may be adjusted to reflect actual payments, projected expenditures, funds appropriated by the Legislature for treatment services, and the overall status of the account established in subdivision (b).

(b) Beginning with the 1990–91 fiscal year, the department shall establish a separate Child Health and Disability Prevention Treatment Account. For purposes of this chapter "CHDP Treatment Account" means the account established pursuant to this subdivision.

(1) The following funds shall be deposited into the CHDP Treatment Account:

(A) Funds appropriated by the Legislature to fund the reinsurance account established in subdivision (b) of Section 16934.2 which are not expended or encumbered for that purpose.

(B) Any funds recouped from those counties electing to establish a 15 percent reserve pursuant to subdivision (a) of Section 16934.2.

(C) Funds retained by the department pursuant to subdivision (a).

(D) Interest earnings on funds.

(E) Any additional funds appropriated by the Legislature.

(2) Funds deposited in the CHDP Treatment Account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this chapter, shall not be transferred to any other fund or account except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(3) Moneys deposited into the account shall constitute a risk pool which shall be used for any or all of the following purposes:

(A) Payment for services provided pursuant to Section 16934 in counties which have contracted with the department pursuant to subdivision (a).

(B) State administrative costs, including any costs associated with

a contract for processing claims.

(C) Counties shall implement this section in consultation and coordination with their child health and disability prevention programs.

SEC. 16.6. Section 16941.1 is added to the Welfare and Institutions Code, to read:

16941.1. For the 1990–91 fiscal year, any county that elects to participate in the County Medical Services Program pursuant to paragraphs (1) and (2) of subdivision (b) of Section 16809 shall have the amounts allocated to that county pursuant to this chapter transferred as follows:

(a) Of the moneys allocated from the Hospital Services Account pursuant to Section 16943, seven-seventeenths of the transferable amount shall be transferred to the Hospital Services Account governed by Section 16932. The remainder of this amount shall be transferred to the County Medical Services Program Account and shall be utilized for the purposes specified in Section 16809.5.

(b) Of the moneys allocated from the Physician Services Account pursuant to Section 16950, seven-seventeenths of the transferable amount shall be transferred to the Physician Services Account governed by Section 16933. The remainder of this amount shall be transferred to the County Medical Services Program Account and shall be utilized for the purposes specified in Section 16809.5.

(c) Of the moneys allocated from the Unallocated Account governed by Section 16960, seven-seventeenths of the transferable amount shall be transferred to the Unallocated Account governed by the provisions of Section 16933. The remainder of this amount shall be transferred to the County Medical Services Program Account and shall be utilized for the purposes specified in Section 16809.5.

(d) (1) Except as provided in paragraph (2), funds transferred pursuant to this section shall be subject to all applicable statutes.

(2) Counties shall not have the option to contract with the department for administration of moneys specified in subdivision (a) of Section 16934.7 or subdivision (c) of Section 16952.

SEC. 16.7. Section 16943 of the Welfare and Institutions Code is amended to read:

16943. (a) Of those allocations made pursuant to Section 16941 for the 1989–90 fiscal year, 59.5 percent shall be used to support uncompensated services provided by county and noncounty hospitals.

(b) For allocations under Section 16941 for the 1990–91 fiscal year, the department shall establish that percentage of the total 1990–91 fiscal year appropriation to the CHIP Account which derives from the Hospital Services Account of the fund.

(c) The percentages established in subdivisions (a) and (b), when applied to the amount of each MISP county's annual allocation pursuant to Section 16941, constitute the minimum amount of the allocation which is reserved for payment or support of uncompensated services provided by hospitals licensed pursuant to

subdivision (a) of Section 1250 of the Health and Safety Code.

(d) The amount of funds calculated in subdivision (c) shall be referred to as the hospital services funding portion of each county's allocation made pursuant to Section 16941.

(e) (1) For purposes of calculating county and hospital allocations pursuant to this article for the 1991–92 fiscal year and each fiscal year thereafter, the sum of eighteen million dollars ($18,000,000) shall be added proportionately to each county's hospital services funding allocation calculated in subdivision (c).

(2) The amount added pursuant to paragraph (1) shall distributed within each county's allocation according to subdivisions (a), (b), and (c) of Section 16946.

SEC. 17. 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 the computations for fiscal years after the 1989-90 fiscal year, the office shall use the data from the quarterly reports for the calendar year preceding the computational fiscal year, as adjusted by the office, existing on the statewide file on April 15 immediately preceding the computational fiscal year.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), the definitions, procedures, and data elements specified in Chapter 3 (commencing with Section 16920) shall be used in all computations required in subdivision (c).

(B) For the 1991–92 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the sum of the charges related to patients falling within the charity-other category in the 1990 calendar year and 25 percent of the charges related to patients falling within the bad debts category in the first two quarters of the 1990 calendar year, as both categories of charges are reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(C) For the 1992-93 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the charges related to

patients falling within charity-other, as reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(D) For the 1993–94 fiscal year, the following definitions shall be used in all computation required in subdivision (c):

(i) (I) For county hospitals and for all hospitals operating in counties with no county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other, gross inpatient revenue-county indigent programs and gross outpatient revenue-county indigent programs, as reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(II) For noncounty hospitals operating in a county with a county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other and county indigent programs contractual adjustments, as reported quarterly to the office pursuant to Section 443.32 of the Health and Safety Code.

(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. 18. 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 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. Beginning in the 1991–92 fiscal year and annually thereafter, these amounts shall be reduced by dividing each county's amount by the total amount for all counties, multiplied by the sum of twelve million dollars ($12,000,000). 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 and fiscal years thereafter, 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) (A) (i) 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.

(ii) In contracting for emergency care with hospitals in neighboring counties, the county shall not impose conditions to accept transfers that it does not impose on hospitals within its own boundaries.

(B) (i) 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.

(ii) The county shall also consider the patterns of care of its residents provided by Level I trauma care hospitals in contiguous counties and may make proportionate allocations to those trauma centers.

(c) (1) 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.

(2) Beginning in the 1991–92 fiscal year and annually thereafter, the amount of each county's funding portion calculated pursuant to paragraph (2) of subdivision (a) shall be reduced by an amount that shall be calculated as follows:

(A) Divide each county's amount of funding under paragraph (2) of subdivision (a) by the total amount of funding under that paragraph for all counties.

(B) Multiply the quotient calculated pursuant to subparagraph (A) by the sum of six million dollars ($6,000,000).

(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) (A) Maintain the same number and classification of emergency room permits and trauma facility designations as existed on January 1, 1990.

(B) (i) Any hospital that maintained two special permits for basic emergency service on the effective date of this part shall be deemed to have met the requirements of paragraph (1) of subdivision (d), if each of the emergency rooms was located on separate campuses of the hospital and was located not more than two miles from the other emergency room.

(ii) Clause (i) shall apply even if one of the emergency room permits is surrendered after the effective date of this part.

(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).

(h) (1) In any county that comprises not more than one-half of 1 percent of the total state population and in which there are a county hospital and a noncounty hospital with emergency room permits located within two miles of each other, the county hospital may surrender its emergency room permit without any penalty for violation of paragraph (1) of subdivision (d) provided all of the following occur:

(A) The county shall enter into a contractual arrangement with the noncounty hospital.

(B) The county and noncounty hospital shall provide for the availability of at least the same level of emergency services and specialty backup which the county hospital and noncounty hospital provided prior to the surrendering of the emergency room permit.

(C) The county shall establish sufficient capacity, including evening and weekend coverage, in its urgent care clinic and other outpatient clinics to provide for the same or greater level of urgent care and nonemergency visits that were provided in the county hospital emergency department in the calendar year prior to the surrendering of the emergency room permit.

(D) The county shall provide for adequate initial and ongoing public notification and information, in Spanish and English, on the availability of emergency, urgent care, and nonurgent clinic services and how to obtain those services.

(E) The county ensures that there are adequate Spanish translation services and referral services on a 24-hour basis at the noncounty hospital emergency department, and at the county hospital clinics, during their hours of operation.

(2) The department shall annually review the county's compliance with this subdivision. If the department determines that the county is not in compliance with this subdivision, it shall require the county to recover funds and deny further payments pursuant to

subdivision (e) until compliance is resumed.

(3) Any county that is permitted under paragraph (1) to surrender its emergency room permit shall continue to fulfill its duties and obligations to provide indigent care according to Section 17000.

SEC. 18.5. 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) (A) Seeking payment from a responsible third-party payer or, subject to subparagraph (B), continuing collection on a repayment schedule for the cost of services rendered.

(B) Collection on a repayment schedule shall be based on the patient's ability to pay.

(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. 19. 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 each fiscal year following the 1989–90 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. 19.5. Section 16953 of the Welfare and Institutions Code is amended to read:

16953. (a) For purposes of this chapter "emergency services" means physician services in general acute care hospitals which provide basic or comprehensive emergency services, or in a site which was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients, for emergency medical conditions.

(b) For purposes of this chapter, "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, which in the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction to any bodily organ or part.

(c) It is the intent of this section to allow reimbursement for all inpatient and outpatient services which are necessary for the treatment of an emergency medical condition as certified by the attending physician or other appropriate provider.

SEC. 20. Section 16953.1 of the Welfare and Institutions Code is amended to read:

16953.1. Notwithstanding any other provision of this chapter, an emergency physician and surgeon, or an emergency physician group, with a gross billings arrangement with a hospital shall be entitled to receive reimbursement from the physician services account in the county's emergency medical services fund for services provided in that hospital, if all of the following conditions are met:

(a) The services are provided in a basic or comprehensive general acute care hospital emergency department.

(b) The physician and surgeon is not an employee of the hospital.

(c) All provisions of Section 16955 are satisfied, except that payment to the emergency physician and surgeon, or an emergency physician group, by a hospital pursuant to a gross billings arrangement shall not be interpreted to mean that payment for a patient is made by a responsible third party.

(d) Reimbursement from the physician services account in the county's emergency medical services fund is sought by the hospital or the hospital's designee, as the billing and collection agent for the emergency physician and surgeon, or an emergency physician

group.

(e) For purposes of this section, "gross billings arrangement" means an arrangement whereby a hospital serves as the billing and collection agent for the emergency physician and surgeon, or an emergency physician group, and pays the emergency physician and surgeon, or an emergency physician group, a percentage of the emergency physician and surgeon's or group's gross billings for all patients.

SEC. 21. Section 16953.2 is added to the Welfare and Institutions Code, to read:

16953.2. Nothing in this article shall prevent a physician from utilizing an agent who furnishes billing and collection services to the physician to submit claims or receive payment for claims.

SEC. 22. Section 16953.3 is added to the Welfare and Institutions Code, to read:

16953.3. Notwithstanding any other restrictions on reimbursement, a county may adopt a fee schedule to establish a uniform, reasonable level of reimbursement from the physician services account for reimbursable services.

SEC. 22.5. Section 16954 of the Welfare and Institutions Code is amended to read:

16954. As a condition of having the state administer a CSMP county's Physician Services Account, each CSMP county shall do all of the following:

(a) Contract with the department to administer its county physician services account.

(b) (1) Transfer all funds appropriated to the county for purposes of the county Physician Services Account to the department under such conditions as the department may require.

(2) The department may use funds retained pursuant to this subdivision for purposes of administration of this section.

(c) Agree to uniform operating and reimbursement policies regarding the physician services account which shall be mutually established by the participating counties in conjunction with the department.

SEC. 22.6. Section 16990 of the Welfare and Institutions Code is amended to read:

16990. (a) (1) Any county receiving an allocation pursuant to this chapter and Chapter 4 (commencing with Section 16930) shall, at a minimum, maintain a level of financial support of county funds for health services at least equal to the total of the amounts specified in subparagraphs (A) and (B). The amounts specified in paragraph (1) shall be adjusted on July 1 of each year equal to the growth in the sales tax and vehicle license fees allocated to the trust fund accounts and the county general fund pursuant to Chapter 6 (commencing with Section 17600) of Part 5.

(A) Each of the following counties shall maintain a realignment financial maintenance of effort according to the following schedule:

Jurisdiction	Amount
Alameda	$ 66,172,142
Alpine	191,532
Amador	1,885,986
Butte	8,382,167
Calaveras	1,351,672
Colusa	1,363,342
Contra Costa	32,527,235
Del Norte	1,305,954
El Dorado	5,628,490
Fresno	31,887,759
Glenn	1,322,813
Humboldt	9,437,378
Imperial	8,530,659
Inyo	2,321,482
Kern	22,637,159
Kings	4,312,919
Lake	1,888,162
Lassen	1,869,715
Los Angeles	499,547,885
Madera	3,525,698
Marin	11,354,900
Mariposa	707,203
Mendocino	2,964,379
Merced	4,547,907
Modoc	987,714
Mono	1,527,781
Monterey	11,548,209
Napa	4,753,548
Nevada	2,671,268
Orange	64,889,543
Placer	3,349,829
Plumas	1,144,332
Riverside	33,209,144
Sacramento	36,502,131
San Benito	1,626,623
San Bernardino	28,106,560
San Diego	50,552,965
San Francisco	110,762,627
San Joaquin	12,821,112
San Luis Obispo	6,048,705
San Mateo	21,866,810
Santa Barbara	12,567,460
Santa Clara	47,432,401
Santa Cruz	8,129,140
Shasta	6,524,844
Sierra	347,005

Siskiyou	2,402,777
Solano	8,947,538
Sonoma	16,155,457
Stanislaus	13,535,613
Sutter	5,055,480
Tehama	3,259,243
Trinity	1,523,358
Tulare	8,292,907
Tuolumne	2,526,086
Ventura	16,605,420
Yolo	4,576,513
Yuba	3,085,086
Berkeley	2,604,024
Long Beach	2,746,725
Pasadena	1,303,782
Total	$1,285,654,298

(B) Each of the following counties shall maintain an additional maintenance of effort according to the following schedule:

Jurisdiction	Amount
Alameda	$ 18,792,665
Alpine	18,339
Amador	56,569
Butte	0
Calaveras	12,583
Colusa	0
Contra Costa	8,354,119
Del Norte	33,668
El Dorado	522,999
Fresno	476,243
Glenn	337,822
Humboldt	0
Imperial	299,028
Inyo	0
Kern	3,428,161
Kings	127,484
Lake	112,539
Lassen	0
Los Angeles	36,077,598
Madera	285,161
Marin	2,434,309
Mariposa	38,160
Mendocino	740,217
Merced	619,666
Modoc	0
Mono	366,371
Monterey	3,092,450
Napa	359,593

Nevada	343,187
Orange	4,573,945
Placer	568,920
Plumas	118,953
Riverside	197,812
Sacramento	2,765,180
San Benito	162,812
San Bernardino	4,187,700
San Diego	16,925,600
San Francisco	28,995,054
San Joaquin	4,433,684
San Luis Obispo	3,514,586
San Mateo	6,709,496
Santa Barbara	2,418,096
Santa Clara	16,249,506
Santa Cruz	983,061
Shasta	239,144
Sierra	25,567
Siskiyou	18,867
Solano	607,622
Sonoma	607,622
Stanislaus	147,660
Sutter	0
Tehama	12,902
Trinity	90,066
Tulare	2,338,470
Tuolumne	373,830
Ventura	3,236,260
Yolo	134,858
Yuba	152,681
Total	$177,718,885

(2) A county may, upon notifying the department of the transfers authorized by this paragraph, reduce the level of financial maintenance of effort required of the county by subparagraph (A) of paragraph (1) by the amount of the funds transferred from the Health Account pursuant to Section 17600.20.

(b) For purposes of this section, if a county desires to use any of its allocation pursuant to this chapter or Chapter 4 (commencing with Section 16930) for programs and costs not reported as part of the plan and budget required by Section 16800, the county, as a condition of using its allocation for these purposes, must maintain an amount of county funding for those programs and costs at least equal to the 1988–89 fiscal year levels.

(c) Moneys received by a county under this chapter shall be accounted for as revenue in the plan and budget which is required pursuant to Section 16800 and shall not be used as county matching funds for any other program requiring a county match.

SEC. 23. Section 16997.1 of the Welfare and Institutions Code is

amended to read:

16997.1. This part shall remain operative only until July 1, 1994, and 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. 24. Section 57 of Chapter 51 of the Statutes of 1990 is amended to read:

Sec. 57. The sum of one million dollars ($1,000,000) is appropriated from the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the State Department of Health Services, for expenditure in the 1990–91 and 1991–92 fiscal years, to promote increased access to dental services through outreach efforts conducted under the Child Health and Disability Prevention Program, and through county or clinic dental-related minor renovations, and dental-related capital expenditures, including fixed and mobile dental equipment pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code and Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

SEC. 25. Section 69 of Chapter 51 of the Statutes of 1990 is amended to read:

Sec. 69. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund for expenditure in the 1990–91 to 1993–94 fiscal years, inclusive, to the State Department of Health Services for the primary care clinic risk pool established pursuant to subdivision (a) of Section 1189.110.

(b) (1) For the 1991–92 to 1993–94 fiscal years, inclusive, the State Department of Health Services shall expend up to four hundred seventy-five thousand dollars ($475,000) of that amount appropriated pursuant to subdivision (a) for grants to clinics to expand access to dental care.

(2) If the amount of the appropriation made by subdivision (a) that remains in the risk pool established pursuant to Section 1189.110 of the Health and Safety Code is expended, it is the intent of the Legislature that any subsequent appropriation for the purpose of this subdivision shall be derived from funds that otherwise would be appropriated for grants to clinics for expanded access to primary care services under Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(c) The funds which may be expended pursuant to subdivision (b) shall be subject to all of the following limitations:

(1) The funds which may be expended pursuant to subdivision (b) shall be awarded only to clinics in counties where access to dental care for low-income people is severely limited, as indicated by one or more of the following factors:

(A) (i) The number of persons in the county who are determined to be eligible for Medi-Cal benefits who are served by active Medi-Cal dentists in the county.

(ii) For purposes of this paragraph, "active Medi-Cal dentists" means dentists who, during the 1989 calendar year, served 10 or more persons determined to be eligible for Medi-Cal benefits.

(B) The percentage of individuals and families with incomes at or below 200 percent of the federal poverty level who had one or more dental visits per year.

(C) The number of persons in the county who have not been determined eligible for Medi-Cal benefits who are in families with incomes at or below 200 percent of the federal poverty line per licensed dentist in the county, according to the most recent United States Census data.

(D) The availability of dental services provided through a nonprofit community clinic in the county.

(2) Funds shall not be awarded pursuant to subdivision (b) to any county, or to any clinic located in a county, which has received funds pursuant to Section 16709.5 of the Welfare and Institutions Code or pursuant to Section 57 of Chapter 51 of the Statutes of 1990.

(3) The funds which may be expended pursuant to subdivision (b) shall be used to purchase portable equipment or other equipment which will allow clinics to provide dental care in underserved areas and for related startup expenses.

(4) In order to qualify for funding under this section, a clinic shall have received funds in the 1990-91 fiscal year pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

SEC. 26. (a) On or before April 1, 1992, the State Department of Health Services shall, with the cooperation of the counties, report to the appropriate committees of the Legislature on the utilization of money appropriated from the Physician Services Account in the Cigarette and Tobacco Products Surtax Fund for the purposes of Article 3.5 (commencing with Section 16951) of Chapter 5 of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(b) The information required by subdivision (a) shall include all of the following:

(1) A description of the criteria used by counties in reimbursing emergency services claims with funds described in subdivision (a), including, but not limited to, a description of the definitions of stabilized emergency medical conditions that the counties employ in determining how long they use those funds to pay for physician services provided to patients after they have been admitted to a hospital for an emergency condition.

(2) Identification of those policies or situations that may result in emergency service funds from money appropriated as described in subdivision (b) being used for inappropriate purposes, including, but not limited to, ongoing services provided after the emergency medical condition has been stabilized.

(3) Recommendations for the resolution of any problem that may be identified pursuant to paragraph (2).

SEC. 27. For the 1991-92 fiscal year, the sum of four hundred

ninety-seven million sixty-four thousand dollars ($497,064,000) is appropriated from the Cigarette and Tobacco Products Surtax Fund for the purposes of this act according to the following schedule:

(a) Twenty-seven million two hundred thousand dollars ($27,200,000) from the Health Education Account to the State Department of Education, as follows:

(1) Nine hundred thousand dollars ($900,000) for state administration.

(2) Two million dollars ($2,000,000) for allocation to county offices of education.

(3) Twenty-four million three hundred thousand dollars ($24,300,000) for local assistance.

(b) Ninety-six million six hundred forty-four thousand dollars ($96,644,000) from the Health Education Account to the State Department of Health Services, as follows:

(1) One million one hundred seventy-eight thousand dollars ($1,178,000) for state administration.

(2) Sixteen million dollars ($16,000,000) for a health education media campaign pursuant to Section 24164 of the Health and Safety Code.

(3) Thirty-five million six hundred forty-six thousand dollars ($35,646,000) for health screening services provided through the Child Health Disability Prevention Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code pursuant to Section 24165.3 of the Health and Safety Code.

(4) Fifteen million eight hundred twenty thousand dollars ($15,820,000) for establishment of competitive grants pursuant to Section 24165 of the Health and Safety Code.

(5) Two million three hundred thousand dollars ($2,300,000) for operation of the Tobacco Education Oversight Committee under Section 24162 of the Health and Safety Code and the contract for a systematic and independent evaluation conducted pursuant to Section 24164 of the Health and Safety Code.

(6) Twenty-four million seven hundred thousand dollars ($24,700,000) for allocation to local lead agencies upon the approval of the local plan by the State Department of Health Services pursuant to Section 24165.5 of the Health and Safety Code.

(7) One million dollars ($1,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(c) (1) Twenty-seven million one hundred eighty-eight thousand dollars ($27,188,000) from the Health Education Account for transfer to the Perinatal Insurance Fund created by Section 12699 of the Insurance Code, for the provision of health education and services relating to tobacco use, to subscribers purchasing insurance pursuant to Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(2) Any funds appropriated by this section and allocated pursuant

to paragraph (1) that are not expended in the 1991–92 fiscal year for those services described in paragraph (1) may be carried forward to subsequent fiscal years until the entire amount has been expended for those services.

(d) Four hundred seventy-four thousand dollars ($474,000) from the Hospital Services Account to the Office of Statewide Health Planning and Development, for state administration.

(e) One hundred sixty-eight million two hundred ten thousand dollars ($168,210,000) from the Hospital Services Account to the State Department of Health Services, as follows:

(1) One million four hundred twenty-two thousand dollars ($1,422,000) for allocation to children's hospitals pursuant to Chapter 6 (commencing with Section 16996) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Four million nine hundred sixty-one thousand dollars ($4,961,000) for allocation to CMSP counties for expansion of services.

(3) One hundred fifty-three million seven hundred fifty-two thousand dollars ($153,752,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(4) One million eight hundred seven thousand dollars ($1,807,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million two hundred sixty-eight thousand dollars ($1,268,000) to the State Department of Health Services for state administration.

(6) Five million dollars ($5,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(f) Four million nine hundred thirty-nine thousand dollars ($4,939,000) from the Hospital Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(g) Thirty-seven million five hundred eighteen thousand dollars ($37,518,000) from the Physicians Services Account to the State Department of Health Services, as follows:

(1) Three million four hundred thirty-eight thousand dollars ($3,438,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Eight million six hundred forty-six thousand dollars ($8,646,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) One million nine hundred eighty-six thousand dollars ($1,986,000) for allocation to CMSP counties for expansion of health services.

(4) Twenty-one million eight hundred thirty-one thousand dollars ($21,831,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred eighty-nine thousand dollars ($1,189,000) for allocation to counties for rural health services pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four hundred twenty-eight thousand dollars ($428,000) for state administration.

(h) Nine million six hundred seventy-six thousand dollars ($9,676,000) from the Physician Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(i) Four million dollars ($4,000,000) from the Physician Services Account to the State Department of Mental Health for local mental health services.

(j) Eighty-one million seven hundred fifteen thousand dollars ($81,715,000) from the Unallocated Account to the State Department of Health Services, as follows:

(1) Thirteen million one hundred twenty-three thousand dollars ($13,123,000) for clinic services pursuant to Part 6.9 (commencing with Section 1181.101) of Division 1 of the Health and Safety Code.

(2) Nine million seven hundred thousand dollars ($9,700,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) Two million four hundred seventy-one thousand dollars ($2,471,000) for allocation to CMSP counties for expansion of health services.

(4) Fifty million seven hundred twenty-one thousand dollars ($50,721,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred seventy-seven thousand dollars ($1,177,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four million five hundred twenty-three thousand dollars ($4,523,000) for state administration.

(k) Three million dollars ($3,000,000) from the Unallocated Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(*l*) Five hundred thousand dollars ($500,000) from the Unallocated Account to the State Department of Education for local assistance pursuant to Section 24167 of the Health and Safety Code.

(m) Thirty-six million dollars ($36,000,000) from the Unallocated Account to the State Department of Mental Health for local mental health services.

SEC. 28. For the 1992–93 fiscal year, the sum of four hundred sixty-nine million eight hundred seventy-six thousand dollars ($469,876,000) is appropriated from the Cigarette and Tobacco Products Surtax Fund for the purposes of this act according to the following schedule:

(a) Twenty-seven million two hundred thousand dollars ($27,200,000) from the Health Education Account to the State Department of Education, as follows:

(1) Nine hundred thousand dollars ($900,000) for state administration.

(2) Two million dollars ($2,000,000) for allocation to county offices of education.

(3) Twenty-four million three hundred thousand dollars ($24,300,000) for local assistance.

(b) Ninety-six million six hundred forty-four thousand dollars ($96,644,000) from the Health Education Account to the State Department of Health Services, as follows:

(1) One million one hundred seventy-eight thousand dollars ($1,178,000) for state administration.

(2) Sixteen million dollars ($16,000,000) for health education media campaign pursuant to Section 24164 of the Health and Safety Code.

(3) Thirty-five million six hundred forty-six thousand dollars ($35,646,000) for health screening services provided through the Child Health Disability Prevention Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code pursuant to Section 24165.3 of the Health and Safety Code.

(4) Fifteen million eight hundred twenty thousand dollars ($15,820,000) for establishment of competitive grants pursuant to Section 24165 of the Health and Safety Code.

(5) Two million three hundred thousand dollars ($2,300,000) for operation of the Tobacco Education Oversight Committee under Section 24162 of the Health and Safety Code and the contract for a systematic and independent evaluation conducted pursuant to Section 24164 of the Health and Safety Code.

(6) Twenty-four million seven hundred thousand dollars ($24,700,000) for allocation to local lead agencies upon the approval of the local plan by the State Department of Health Services pursuant to Section 24165.5 of the Health and Safety Code.

(7) One million dollars ($1,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(c) Four hundred seventy-four thousand dollars ($474,000) from the Hospital Services Account to the Office of Statewide Health Planning and Development, for state administration.

(d) One hundred sixty-eight million two hundred ten thousand dollars ($168,210,000) from the Hospital Services Account to the State Department of Health Services, as follows:

(1) One million four hundred twenty-two thousand dollars ($1,422,000) for allocation to children's hospitals pursuant to Chapter 6 (commencing with Section 16996) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Four million nine hundred sixty-one thousand dollars ($4,961,000) for allocation to CMSP counties for expansion of services.

(3) One hundred fifty-three million seven hundred fifty-two thousand dollars ($153,752,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(4) One million eight hundred seven thousand dollars ($1,807,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million two hundred sixty-eight thousand dollars ($1,268,000) to the State Department of Health Services for state administration.

(6) Five million dollars ($5,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(e) Four million nine hundred thirty-nine thousand dollars ($4,939,000) from the Hospital Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(f) Thirty-seven million five hundred eighteen thousand dollars ($37,518,000) from the Physicians Services Account to the State Department of Health Services, as follows:

(1) Three million four hundred thirty-eight thousand dollars ($3,438,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Eight million six hundred forty-six thousand dollars ($8,646,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) One million nine hundred eighty-six thousand dollars ($1,986,000) for allocation to CMSP counties for expansion of health services.

(4) Twenty-one million eight hundred thirty-one thousand dollars ($21,831,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred eighty-nine thousand dollars ($1,189,000) for allocation to counties for rural health services

pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four hundred twenty-eight thousand dollars ($428,000) for state administration.

(g) Thirteen million six hundred seventy-six thousand dollars ($13,676,000) from the Physician Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(h) Eighty-one million seven hundred fifteen thousand dollars ($81,715,000) from the Unallocated Account to the State Department of Health Services, as follows:

(1) Thirteen million one hundred twenty-three thousand dollars ($13,123,000) for clinic services pursuant to Part 6.9 (commencing with Section 1181.101) of Division 1 of the Health and Safety Code.

(2) Nine million seven hundred thousand dollars ($9,700,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) Two million four hundred seventy-one thousand dollars ($2,471,000) for allocation to CMSP counties for expansion of health services.

(4) Fifty million seven hundred twenty-one thousand dollars ($50,721,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred seventy-seven thousand dollars ($1,177,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four million five hundred twenty-three thousand dollars ($4,523,000) for state administration.

(i) Thirty-nine million dollars ($39,000,000) from the Unallocated Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(j) Five hundred thousand dollars ($500,000) from the Unallocated Account to the Department of Education for local assistance pursuant to Section 24167.

SEC. 29. For the 1993–94 fiscal year, the sum of four hundred sixty-nine million eight hundred seventy-six thousand dollars ($469,876,000) is appropriated from the Cigarette and Tobacco Products Surtax Fund for the purposes of this act according to the following schedule:

(a) Twenty-seven million two hundred thousand dollars ($27,200,000) from the Health Education Account to the State Department of Education, as follows:

(1) Nine hundred thousand dollars ($900,000) for state administration.

(2) Two million dollars ($2,000,000) for allocation to county offices of education.

(3) Twenty-four million three hundred thousand dollars ($24,300,000) for local assistance.

(b) Ninety-six million six hundred forty-four thousand dollars ($96,644,000) from the Health Education Account to the State Department of Health Services, as follows:

(1) One million one hundred seventy-eight thousand dollars ($1,178,000) for state administration.

(2) Sixteen million dollars ($16,000,000) for health education media campaign pursuant to Section 24164 of the Health and Safety Code.

(3) Thirty-five million six hundred forty-six thousand dollars ($35,646,000) for health screening services provided through the Child Health Disability Prevention Program contained in Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code pursuant to Section 24165.3 of the Health and Safety Code.

(4) Fifteen million eight hundred twenty thousand dollars ($15,820,000) for establishment of competitive grants pursuant to Section 24165 of the Health and Safety Code.

(5) Two million three hundred thousand dollars ($2,300,000) for operation of the Tobacco Education Oversight Committee under Section 24162 of the Health and Safety Code and the contract for a systematic and independent evaluation conducted pursuant to Section 24164 of the Health and Safety Code.

(6) Twenty-four million seven hundred thousand dollars ($24,700,000) for allocation to local lead agencies upon the approval of the local plan by the State Department of Health Services pursuant to Section 24165.5 of the Health and Safety Code.

(7) One million dollars ($1,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(c) Four hundred seventy-four thousand dollars ($474,000) from the Hospital Services Account to the Office of Statewide Health Planning and Development, for state administration.

(d) One hundred sixty-eight million two hundred ten thousand dollars ($168,210,000) from the Hospital Services Account to the State Department of Health Services, as follows:

(1) One million four hundred twenty-two thousand dollars ($1,422,000) for allocation to children's hospitals pursuant to Chapter 6 (commencing with Section 16996) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Four million nine hundred sixty-one thousand dollars ($4,961,000) for allocation to CMSP counties for expansion of services.

(3) One hundred fifty-three million seven hundred fifty-two thousand dollars ($153,752,000) for allocation to counties participating in the California Health Care for the Indigents

Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(4) One million eight hundred seven thousand dollars ($1,807,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million two hundred sixty-eight thousand dollars ($1,268,000) to the State Department of Health Services for state administration.

(6) Five million dollars ($5,000,000) for expansion of perinatal services pursuant to Section 14148.5 of the Welfare and Institutions Code.

(e) Four million nine hundred thirty-nine thousand dollars ($4,939,000) from the Hospital Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(f) Thirty-seven million five hundred eighteen thousand dollars ($37,518,000) from the Physicians Services Account to the State Department of Health Services, as follows:

(1) Three million four hundred thirty-eight thousand dollars ($3,438,000) for clinic services pursuant to Part 6.9 (commencing with Section 1189.101) of Division 1 of the Health and Safety Code.

(2) Eight million six hundred forty-six thousand dollars ($8,646,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) One million nine hundred eighty-six thousand dollars ($1,986,000) for allocation to CMSP counties for expansion of health services.

(4) Twenty-one million eight hundred thirty-one thousand dollars ($21,831,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred eighty-nine thousand dollars ($1,189,000) for allocation to counties for rural health services pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four hundred twenty-eight thousand dollars ($428,000) for state administration.

(g) Thirteen million six hundred seventy-six thousand dollars ($13,676,000) from the Physician Services Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(h) Eighty-one million seven hundred fifteen thousand dollars ($81,715,000) from the Unallocated Account to the State Department of Health Services, as follows:

(1) Thirteen million one hundred twenty-three thousand dollars

($13,123,000) for clinic services pursuant to Part 6.9 (commencing with Section 1181.101) of Division 1 of the Health and Safety Code.

(2) Nine million seven hundred thousand dollars ($9,700,000) for perinatal services under Section 14148.5 of the Welfare and Institutions Code.

(3) Two million four hundred seventy-one thousand dollars ($2,471,000) for allocation to CMSP counties for expansion of health services.

(4) Fifty million seven hundred twenty-one thousand dollars ($50,721,000) for allocation to counties participating in the California Health Care for the Indigents Program pursuant to Chapter 5 (commencing Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(5) One million one hundred seventy-seven thousand dollars ($1,177,000) for allocation to counties for uncompensated rural health services under Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(6) Four million five hundred twenty-three thousand dollars ($4,523,000) for state administration.

(i) Thirty-nine million dollars ($39,000,000) from the Unallocated Account for transfer to the Perinatal Insurance Fund for the implementation of Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code.

(j) Five hundred thousand dollars ($500,000) from the Unallocated Account to the State Department of Education for local assistance pursuant to Section 24167 of the Health and Safety Code.

SEC. 31. (a) For the 1991–92 fiscal year only, and notwithstanding paragraph (2) of subdivision (a) of Section 1498.1 of Title 17 of the California Code of Regulations, the notice of intent to contract submitted by an eligible county pursuant to Section 16709 of the Welfare and Institutions Code, or Section 16809 of the Welfare and Institutions Code, as added by Chapter 89 of Statutes of 1991 shall not be legally binding on that county or the state until 15 days after the enactment of the Budget Act of 1991.

(b) (1) For the 1991–92 fiscal year only:

(A) A county that contracted with the State Department of Health Services pursuant to Section 16709 of the Welfare and Institutions Code during the 1990–91 fiscal year may unilaterally terminate any contract entered into pursuant to Section 16709 of the Welfare and Institutions Code, or Section 16809 of the Welfare and Institutions Code, as added by Chapter 89 of the Statutes of 1991.

(B) The effective date of any contract termination under paragraph (1) shall be no earlier than the first day of the calendar month subsequent to 45 days after enactment of the Budget Act of 1991.

(2) Any county that was eligible pursuant to subdivision (a) of Section 16709 of the Welfare and Institutions Code that did not contract with the department pursuant to Section 16709 of the Welfare and Institutions Code, or Section 16809 of the Welfare and

Institutions Code, as added by Chapter 89 of the Statutes of 1991 and the State Department of Health Services may enter into a contract that shall have an effective date, at the discretion of the department, that occurs not later than 90 days after the enactment of the Budget Act of 1991.

(3) With respect to any county that contracted with the State Department of Health Services pursuant to Section 16709 of the Welfare and Institutions Code during the 1990–91 fiscal year, the effective date of contracting shall be July 1, 1991, unless the county terminates participation pursuant to subparagraph (A) of paragraph (1).

SEC. 32. 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 Sections 14105.4 and 14105.5 of the Welfare and Institutions Code to implement this act. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety.

SEC. 33. All funds derived from the imposition of taxes pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, which are appropriated for the purposes of this act, shall be used to supplement existing levels of services provided and shall not be used to fund existing levels of service.

SEC. 34. No funds derived from the imposition of taxes pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, which are appropriated from the Hospital Services Account, the Physician Services Account, or the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund, for the purposes of this act, shall be used to pay for services except for the treatment of 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.

SEC. 35. 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. 36. Moneys in the Hospital Services Account, the Physician Services Account, the Health Education Account, and the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund shall not be transferred to any other fund or account, except as provided in this act or other legislation, in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited to the respective account.

SEC. 37. (a) Except as provided in Section 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. 38. The State Department of Health Services may, prior to October 1, 1991, apply paragraph (1) of subdivision (d) of Section 16946 of the Welfare and Institutions Code with respect to the 1989–90 fiscal year and, may, prior to October 1, 1992, apply that provision with respect to the 1990–91 fiscal year, if the county has, prior to the effective date of this act, allocated hospital services funds to a facility but has withheld the payment pending the enactment of this act.

SEC. 39. Any primary care clinic that participated in the Expanded Access to Primary Care Program under Part 6.9 (commencing with Section 1188.101) of Division 1 of the Health and Safety Code during the 1990–91 fiscal year and terminated a Medi-Cal contract with the State Department of Health Services for rendering services on an at-risk basis may recalculate the base visits by submitting, to the State Department of Health Services, a revised annual report, as required by Section 1216 of the Health and Safety Code, and exclude those visits for purposes of establishing the 1988 base year.

SEC. 40. The departmental review staff required to implement Section 24165.3 of the Health and Safety Code, shall include a sufficient number of dental hygienists or similar classifications to enable the department to determine if adequate screening to detect dental disease has taken place and if followup dental treatment has occurred where indicated by the screen. The State Department of Health Services and the Department of Finance shall, to the extent there are sufficient resources available to support the activities of the program, give high priority to dental positions for CHDP program reviews funded with Tobacco Tax revenues in order to implement the dental review required by Section 24165.3 of the Health and Safety Code.

SEC. 41. (a) Of those funds appropriated by paragraph (6) of

subdivision (b) of Section 10 of Chapter 1331 of the Statutes of 1989, as amended by Section 53 of Chapter 51 of the Statutes of 1990, that 10 percent identified for use in awarding grants pursuant to Section 24168 of the Health and Safety Code shall be awarded according to the following schedule:

(1) Not less than two-thirds of that amount shall be awarded as grants to local educational agencies pursuant to Section 24168 of the Health and Safety Code. The State Department of Education shall make not less than two hundred thousand dollars ($200,000) available for proportionate awards to applicant education centers pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code, for tobacco use prevention projects.

(2) Not less than two hundred thousand dollars ($200,000) shall be used for support of statewide program evaluation.

(3) Not more than nine hundred thousand dollars ($900,000) shall be awarded as grants for technical assistance, implementation strategies, and regional coordinating activities related to tobacco use prevention pursuant to subdivision (c) of Section 24168 of the Health and Safety Code.

(b) Any amount that exceeds the amounts specified in subdivision (a) shall be allocated for competitive grants pursuant to Section 24168 of the Health and Safety Code.

(c) On and after January 1, 1992, funding under this section shall be made available only upon a determination by the Legislative Analyst and the Tobacco Education Oversight Committee that the evaluation required by Section 24168.8 indicates that the tobacco use prevention program has been sufficiently changed to meet the purpose of Chapter 1.2 (commencing with Section 24160) of Division 20 of the Health and Safety Code.

SEC. 42. Any unexpended funds available from money appropriated for the 1989–90 fiscal year for the purposes of Section 16709.5 may be utilized to fund increased program costs for the 1990–91 fiscal year that are due to caseload increases and provider rate increases.

SEC. 42.5. Unexpended funds allocated from the 1990–91 fiscal year appropriations for the purposes of Section 16709.5 of the Welfare and Institutions Code may be utilized in the 1991–92 fiscal year for the continuation and completion of projects developed to improve dental access.

SEC. 43. In the event that funds in the Cigarette and Tobacco Products Surtax Fund are insufficient to fund the appropriations set forth in this act or the appropriation for a particular program is insufficient to meet the expenditure needs, the following provisions shall apply:

(a) (1) The Director of Finance may authorize the augmentation or reduction of the amount available for expenditure for a program designated in the schedule set forth for any appropriation in this act by transfer from or transfer to any of the other designated programs

within this act. These transfers may be authorized not sooner than 60 days after notification in writing of the necessity thereof is provided to the chairpersons of the committees in each house which consider appropriations, and the Chairperson of the Joint Legislative Budget Committee, the chairs of the committees of each house which consider health policy, 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) Copies of any notifications required by subparagraph (A) shall be provided to organizations representing programs that receive funding under this act, and to counties, which request in writing that they be informed of such notifications.

(b) The Director of Finance may not authorize the augmentation of the amount available for expenditure from the Cigarette and Tobacco Products Surtax Fund for any new program activities not identified in the schedule set forth in this act.

(c) The Director of Finance shall provide sufficient funding for those programs authorized pursuant to Section 14148.5 of the Welfare and Institutions Code, Section 16709.5 of the Welfare and Institutions Code, and Section 24165.3 of the Health and Safety Code and for those programs authorized in Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of the Insurance Code and shall reduce funding for the remaining programs on a pro rata basis. Those pro rata reductions may include reductions necessary to ensure an adequate reserve in each account, not to exceed 5 percent of the estimated funds available for expenditure in each account during a fiscal year. The reserve in each account may be expended to meet the cost of caseload growth and other increases in program costs.

(d) Any revenues in excess of the amount needed to fund appropriations in this act shall be included in the reserves identified in subdivision (c).

SEC. 44. It is the intent of the Legislature that the executive branch, in consultation with the Legislature and interested parties, will identify appropriate alternative funding strategies for replacement, in the 1992–93 and 1993–94 fiscal years, of the Cigarette and Tobacco Products Surtax Funds appropriated to county mental health programs for the 1991–92 fiscal year.

SEC. 45. (a) Notwithstanding any other provision of law, the State Department of Health Services may enter into a sole source contract for the purpose of pursuing increased County Medical Services Program recoveries and recoupments.

(b) This section shall remain operative only until July 1, 1992, and as of January 1, 1993, is repealed unless a later enacted statute enacted before January 1, 1993, deletes or extends that date.

SEC. 46. Notwithstanding any other provision of law, the State Department of Health Services may execute change orders to fiscal intermediary contracts to implement Part 4.7 (commencing with Section 16900) of Division 9 of the Welfare and Institutions Code,

without any change order notification periods or control agency approvals. Within 30 days of execution of a change pursuant to this section, the State Department of Health Services shall notify the normal reviewing agencies of the execution of the change order.

SEC. 47. Due to the necessity to implement the mandates of Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, any contract made pursuant to this act shall not be subject to Part 2 (commencing with Section 10100) of the Public Contract Code.

SEC. 48. 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 Sections 14105.4 and 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. 49. All funds derived from the imposition of taxes pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, which are appropriated for the purposes of this act shall be used to supplement existing levels of services provided and shall not be used to fund existing levels of service.

SEC. 50. No funds derived from the imposition of taxes pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, which are appropriated from the Hospital Services Account, the Physician Services Account, or the Unallocated Account, in the Cigarette and Tobacco Products Surtax Fund for the purposes of this act shall be used to pay for services except for the treatment of 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.

SEC. 51. Moneys in the Hospital Services Account, the Physician Services Account, the Health Education Account, and the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund shall not be transferred to any other fund or account, except as provided in this act or other legislation, in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited to the respective account.

SEC. 52. (a) The Legislature finds and declares all of the

following:

(1) There are presently numerous federal, state, and county programs providing perinatal health care to women and children of limited economic means.

(2) The total federal, state, and county cost of all existing programs for pregnant women and their children after birth amount to five hundred fifty-one million four hundred thousand dollars ($551,400,000).

(3) The creation of the Access for Infants and Mothers program focuses attention on the need for a more efficient system of perinatal care, including the need for consolidation of services within the existing programs.

(4) That by July 1, 1992, there should be in place a complete consolidated program of perinatal care for women and their children.

(b) (1) In an effort to promote better access and coordination of comprehensive services for women and children, the State Director of Health Services, shall, by January 31, 1992, report to the appropriate fiscal and policy committees of the Legislature on restructuring the existing programs serving women and children.

(2) The report shall make recommendations on needs based systems of care for women, infants, children, and adolescents to do all of the following:

(A) Assure coordination and integration of services to promote measurable improvements in health outcomes.

(B) Identify programs appropriate for consolidation to promote the efficient and cost-effective delivery of maternal and child health services.

(3) The report shall include, but not be limited to, clinical services, preventive and primary care, case management, outreach, immunizations, nutrition, and perinatal substance abuse services.

SEC. 53. (a) A county's obligation to provide or pay for health care services pursuant to 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.

(b) The flexibility of any county, although not limited 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. 54. 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 pursuant to this act will be funded through 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. 55. 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. 56. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue the orderly administration of the programs funded through the allocation of funds resulting from the enactment of Chapter 1331 of the Statutes of 1989, as amended, and to ensure continued access to urgently needed health care in this state, it is necessary that this act take effect immediately.

CHAPTER 279

An act to add Sections 14105.98, 14105.99, 14163, and 14164 to the Welfare and Institutions Code, relating to health services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

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

(a) Federal medicaid rules, including paragraph (2) of subsection (a) of Section 1396a of Title 42 of the United States Code, and Section 433.33 of Title 42 of the Code of Federal Regulations, permit local government financial participation to serve as part of the nonfederal share of expenditures for services rendered to Medi-Cal beneficiaries. Under the federal regulations, local government financial participation may constitute as much as 60 percent of the nonfederal share of expenditures.

(b) Historically, counties have been required to provide local financial participation in support of the Medi-Cal program, although this requirement has not been in place during recent years. For the 1977–78 fiscal year, the last year that local government cash transfers to the state were required by statute, counties were required to transfer more than four hundred million dollars ($400,000,000) to the state in support of the Medi-Cal program. Reinstatement of local government funding support for the Medi-Cal program is desirable at this juncture to enhance funding for Medi-Cal services provided by hospitals that serve a disproportionate number of Medi-Cal and other low-income patients.

(c) While the enhancement of medicaid funding levels in some

other states has involved donation and taxation programs, and has become the subject of evaluation by federal agencies, funding by means of local government financial participation is a conventional and historic vehicle for financing state medicaid expenditures. Local government financial participation is currently used in about 15 state medicaid programs.

(d) Some counties are more able than others to provide financial support for the Medi-Cal program. Therefore, various counties should provide higher funding levels than others for the program.

(e) Other components of government, including the University of California and local hospital districts, are also permitted to provide funding support for the Medi-Cal program. Financial support from these governmental entities for the Medi-Cal program is also appropriate and desirable.

(f) Several federal medicaid statutory amendments over the past decade have encouraged and directed states to provide, as part of their state medicaid programs, special recognition and higher payment amounts to hospitals that provide services to a disproportionate number of medicaid and other low-income patients. These statutory provisions, including Section 2173(a)(1) of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), Section 9433(a) of the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509), and Section 4112 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), among others, were intended by Congress to assist those "safety net" hospitals, particularly public hospitals and teaching hospitals, that face significant financial distress due to changing economic circumstances in the health care industry. The concept of higher medicaid payments to disproportionate share hospitals is intended to assist economically endangered facilities in meeting their rising costs of uncompensated care relating to uninsured and underinsured patients. As part of this concept, there is no federal limit on the level or amount of payment adjustments which can be provided to disproportionate share hospitals by state medicaid programs.

(g) Recent changes in federal law continue to encourage the special recognition of disproportionate share hospitals, as defined by federal law. Amendments to the medicaid program adopted in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) provide additional payment system flexibility for state medicaid programs, encourage additional recognition of hospitals which have increasingly higher "low-income utilization rate" percentages as calculated pursuant to Section 1396r-4 of Title 42 of the United States Code, and permit medicaid payment adjustments to differ based on various types of hospitals that have disproportionate share status.

(h) Chapter 981 of the Statutes of 1988 required the State Department of Health Services to develop a method for determining Medi-Cal disproportionate share hospital status and to adopt a payment adjustment program for these hospitals in accordance with specified federal law.

(i) It is the intent of the Legislature to provide for additional Medi-Cal payment adjustments for inpatient services rendered by disproportionate share hospitals, particularly those hospitals that have proportionately higher "low-income utilization rate" percentages, since many of these facilities are confronted by substantial economic distress. It is also the intent of the Legislature to utilize a portion of the local financial participation to fund other critical Medi-Cal health care expenditures. It is the further intent of the Legislature to obtain the full extent of federal financial participation permitted under federal law for expenditures under the Medi-Cal program.

SEC. 2. Section 14105.98 is added to the Welfare and Institutions Code, to read:

14105.98. (a) The following definitions shall apply for purposes of this section:

(1) "Disproportionate share list" means an annual list of disproportionate share hospitals that provide acute inpatient services issued by the department for purposes of this section.

(2) "Fund" means the Medi-Cal Inpatient Payment Adjustment Fund, created pursuant to Section 14163.

(3) "Eligible hospital" means a hospital included on a disproportionate share list, which is eligible to receive payment adjustments under this section during a particular state fiscal year.

(4) "Hospital" means a health facility that is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility.

(5) "Payment adjustment" or "payment adjustment amount" means an amount paid under this section for acute inpatient hospital services provided by a disproportionate share hospital.

(6) "Payment adjustment year" means the particular state fiscal year with respect to which payments are to be made to eligible hospitals under this section.

(7) "Payment adjustment program" means the system of Medi-Cal payment adjustments for acute inpatient hospital services established by this section.

(8) "Annualized Medi-Cal inpatient paid days" means the total number of Medi-Cal acute inpatient hospital days, regardless of dates of service, for which payment was made by or on behalf of the department to a hospital, under present or previous ownership, during the most recent calendar year ending prior to the beginning of a particular payment adjustment year, including all Medi-Cal acute inpatient-covered days of care for hospitals which are paid on a different basis than per diem payments.

(9) "Low-income utilization rate" means a percentage rate determined by the department in accordance with the requirements of Section 1396r-4(b)(3) of Title 42 of the United States Code, and included on a disproportionate share list.

(10) "Low-income number" means a hospital's low-income

utilization rate rounded down to the nearest whole number, and included on a disproportionate share list.

(11) "1991 Peer Grouping Report" means the final report issued by the department dated May 1991, entitled "Hospital Peer Grouping."

(12) "Major teaching hospital" means a hospital that meets the definition of a university teaching hospital, major nonuniversity teaching hospital, or large teaching emphasis hospital as set forth on page 51 of the 1991 Peer Grouping Report.

(13) "Children's hospital" means a hospital that meets the definition of a children's hospital-state defined, as set forth on page 53 of the 1991 Peer Grouping Report, or which is listed in subdivision (a), or subdivisions (c) to (g), inclusive, of Section 16996.

(14) "Acute psychiatric hospital" means a hospital that meets the definition of an acute psychiatric hospital, a combination psychiatric/alcohol-drug rehabilitation hospital, or a psychiatric health facility, to the extent the facility is licensed to provide acute inpatient hospital service, as set forth on page 52 of the 1991 Peer Grouping Report.

(15) "Alcohol-drug rehabilitation hospital" means a hospital that meets the definition of an alcohol-drug rehabilitation hospital as set forth on page 52 of the 1991 Peer Grouping Report.

(16) "Emergency services hospital" means a hospital that is a licensed provider of basic emergency services as described in Sections 70411 to 70419, inclusive, of Title 22 of the California Code of Regulations, or that is a licensed provider of comprehensive emergency medical services as described in Sections 70451 to 70459, inclusive, of Title 22 of the California Code of Regulations.

(b) For each fiscal year commencing with 1991–92, there shall be Medi-Cal payment adjustment amounts paid to hospitals pursuant to this section. The amount of payments made and the eligible hospitals for each payment adjustment year shall be determined in accordance with the provisions of this section.

(c) For each fiscal year commencing with 1991–92, the department shall issue a disproportionate share list. The list shall be developed in accordance with subdivisions (e) and (f), and shall serve as a basis for payments under this section for the particular payment adjustment year. In developing the list, the department may, to the extent practicable, utilize applicable data which is consistent with analysis compiled or developed by the California Medical Assistance Commission.

(d) (1) Except as otherwise provided by this section, the payment adjustment amounts under this section shall be distributed as a supplement to, and concurrent with, payments on all billings for Medi-Cal acute inpatient hospital services that are paid through Medi-Cal claims payment systems on or after July 1, 1991. In connection with those billings, the department shall pay payment adjustment amounts in accordance with subdivision (g), (h), (i), or (j), as applicable, to any hospital qualifying under subdivision (e).

The nonfederal share of all payment adjustment amounts shall be funded by amounts from the fund. The department shall obtain federal matching funds for the payment adjustment program through customary Medi-Cal accounting procedures.

(2) As a limitation to paragraph (1), all payment adjustment amounts under this section, which are due with respect to billings paid through Medi-Cal claims payment systems on or after July 1, 1991, shall be suspended until the time federal approval is obtained for the payment adjustment program as part of the Medi-Cal program. At the time federal approval is obtained, the department shall proceed pursuant to subparagraphs (A) and (B) in connection with the suspended payment adjustment amounts.

(A) Except as provided by subdivision (*l*), or by any other subdivision of this section, any payment adjustment amounts which were suspended shall, within 60 days, be paid for all those billings paid through Medi-Cal claims payment systems during periods of time, on or after July 1, 1991, for which federal approval is effective for the payment adjustment program.

(B) Payment adjustment amounts shall not be paid in connection with any Medi-Cal billings which were paid through Medi-Cal claims payment systems during any period of time for which federal approval is not effective for the payment adjustment program.

(e) To qualify for payment adjustment amounts under this section, a hospital shall have been included on the disproportionate share list for the particular payment adjustment year. The list shall consist of those hospitals which satisfy both of the following requirements:

(1) The hospital shall meet the federal requirements for disproportionate share status set forth in subsection (d) of Section 1396r-4 of Title 42 of the United States Code.

(2) Either of the following shall apply:

(A) The hospital's medicaid inpatient utilization rate, as defined in Section 1396r-4(b)(2) of Title 42 of the United States Code, shall be at least one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the state.

(B) The hospital's low-income utilization rate shall exceed 25 percent.

(f) (1) For the 1991–92 payment adjustment year, a disproportionate share list shall be issued by the department no later than 60 days after the enactment of this section. For subsequent payment adjustment years, a tentative listing shall be prepared by the department at least 60 days before the beginning of the particular payment adjustment year, and a disproportionate share list shall be issued no later than five days after the beginning of the particular payment adjustment year. All state agencies shall take all necessary steps to supply the most recent data available to the department to meet these deadlines. The Office of Statewide Health Planning and Development shall provide to the department, no later

than March 1 of each year, the data specified by the department, as the data existed on the statewide data base file as of February 1 of each year, from all of the following:

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 of the Health and Safety Code, for hospital fiscal years which ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(D) Any other materials on file with the Office of Statewide Health Planning and Development.

(2) The disproportionate share list shall show all of the following:

(A) The name of the hospital.

(B) Based on the most recent annual data available, and expressed as a percentage, the hospital's Medi-Cal utilization rate and low-income utilization rate as referred to in paragraph (2) of subdivision (e). The department shall determine these rates in accordance with paragraph (4).

(C) Based on the hospital's low-income utilization rate, the hospital's low-income number.

(3) The department shall determine a hospital's satisfaction of paragraph (1) of subdivision (e) based on the most recent information available at the time the particular list is issued, whether the information relates to operations under present or previous ownership.

(4) To determine a hospital's Medi-Cal inpatient utilization rate and low-income utilization rate for purposes of disproportionate share lists, the department shall utilize the same methodology, formulae, and data sources as set forth in connection with interim determinations in Attachment 4.19-A of the Medi-Cal State Plan (effective on or about July 1, 1990), except that the following shall apply:

(A) The calculations shall not be interim, but shall be final for purposes of this section.

(B) To the extent permitted by federal law, the payment adjustment amounts provided to hospitals pursuant to this section shall not be included for any purpose in the calculations and determinations made pursuant to this section.

(C) Any other variation otherwise required by this section or by federal law.

(D) The data utilized by the department shall relate to the

hospital under present and previous ownership. When there has been a change of ownership, a change in the location of the main hospital facility, or a material change in patient admission patterns during the twenty-four months immediately prior to the payment adjustment year, and the change has resulted in a diminution of access for Medi-Cal inpatients at the hospital as determined by the department, the department shall, to the extent permitted by federal law, utilize current data that are reflective of the diminution of access, even if the data are not annual data.

(5) For purposes of payment adjustment amounts under this section, each disproportionate share list shall be considered complete when issued by the department pursuant to paragraph (1) of subdivision (f). Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason, other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.

(g) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital, on the first day of the payment adjustment year, is a major teaching hospital, the hospital shall be paid the sum of all of the following amounts, except as limited by subdivisions (d), (j), (*l*), (p), and (q):

(1) A minimum payment adjustment of three hundred dollars ($300).

(2) The sum of the following amounts, if that sum is a positive number, minus three hundred dollars ($300):

(A) A ninety dollar ($90) payment adjustment for each percentage point, from 25 percent to 29 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(B) A seventy dollar ($70) payment adjustment for each percentage point, from 30 percent to 34 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(C) A fifty dollar ($50) payment adjustment for each percentage point, from 35 percent to 44 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(D) A thirty dollar ($30) payment adjustment for each percentage point, from 45 percent to 64 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(E) A ten dollar ($10) payment adjustment for each percentage point, from 65 percent to 80 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(3) If the sum calculated under paragraph (2) is less than zero, it shall be disregarded for payment purposes.

(h) For each Medi-Cal day of acute inpatient hospital service paid

by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital, on the first day of the payment adjustment year, is a children's hospital, the hospital shall be paid the sum of four hundred fifty dollars ($450), except as limited by subdivisions (d), (j), (*l*), (p), and (q).

(i) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital, on the first day of the payment adjustment year, is an acute psychiatric hospital or an alcohol-drug rehabilitation hospital, the hospital shall be paid the sum of all of the following amounts, except as limited by subdivisions (d), (j), (*l*), (p), and (q):

(1) A minimum payment adjustment of fifty dollars ($50).

(2) The sum of the following amounts, if that sum is a positive number, minus fifty dollars ($50):

(A) A ten dollar ($10) payment adjustment for each percentage point, from 25 to 29 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(B) A seven dollar ($7) payment adjustment for each percentage point, from 30 to 34 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(C) A five dollar ($5) payment adjustment for each percentage point, from 35 to 44 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(D) A two dollar ($2) payment adjustment for each percentage point, from 45 to 64 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(E) A one dollar ($1) payment adjustment for each percentage point, from 65 to 80 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(3) If the sum calculated under paragraph (2) is less than zero, it shall be disregarded for payment purposes.

(j) For each Medi-Cal day of acute inpatient hospital service paid by or on behalf of the department during a payment adjustment year, regardless of dates of service, to a hospital on the applicable disproportionate share list, where that hospital does not meet the criteria for receiving payments under subdivision (g), (h), or (i) above, the hospital shall be paid the sum of all of the following amounts, except as limited by subdivisions (d), (j), (*l*), (p), and (q):

(1) A minimum payment adjustment of one hundred dollars ($100).

(2) If the hospital is an emergency services hospital at the time the payment adjustment is paid, a two hundred dollar ($200) payment adjustment.

(3) The sum of the following amounts if the sum is a positive number, minus one hundred dollars ($100), and minus an additional two hundred dollars ($200) if the hospital is an emergency services

hospital at the time the payment adjustment is paid:

(A) A forty dollar ($40) payment adjustment for each percentage point, from 25 percent to 29 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(B) A thirty-five dollar ($35) payment adjustment for each percentage point, from 30 percent to 34 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(C) A thirty dollar ($30) payment adjustment for each percentage point, from 35 percent to 44 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(D) A twenty dollar ($20) payment adjustment for each percentage point, from 45 percent to 64 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(E) A fifteen dollar ($15) payment adjustment for each percentage point, from 65 percent to 80 percent, inclusive, of the hospital's low-income number as shown on the disproportionate share list.

(4) If the sum calculated under paragraph (3) is less than zero, it shall be disregarded for payment purposes.

(k) (1) For any particular payment adjustment year, no hospital may qualify for payments under more than one subdivision among subdivisions (g), (h), (i), and (j). If any hospital qualifies under more than one subdivision, the department shall determine which subdivision shall apply for payments.

(2) For each payment adjustment year beginning with 1992–93, the total applicable per diem payment adjustment amount calculated for each eligible hospital pursuant to subdivision (g), (h), (i), or (j) shall be adjusted by a percentage identical to the percentage increase in transfer amounts that the department has authorized for use pursuant to paragraph (1) of subdivision (h) of Section 14163 for the particular fiscal year.

(3) If an eligible hospital ordinarily is paid by or on behalf of the department for Medi-Cal acute inpatient hospital services based on a payment methodology other than per diem payments, the eligible hospital shall receive payment adjustment amounts under this section based on its approved Medi-Cal days of acute inpatient hospital care, in the same fashion as all other eligible hospitals under this section.

(*l*) (1) In determining Medi-Cal days of service for purposes of payment adjustments under this section, the department shall recognize all acute inpatient hospital days of service required to be taken into account under federal law.

(2) Notwithstanding paragraph (1), there shall be, for each eligible hospital, a maximum limit on the number of Medi-Cal acute inpatient hospital days for which payment adjustment amounts may be paid under this section with respect to each payment adjustment

year. The maximum limit shall be that number of days that equals 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days, as determined from all Medi-Cal paid claims records available through April 1 preceding the beginning of the payment adjustment year.

(m) No payment rate for any service rendered by any hospital under the Medi-Cal selective provider contracting program shall be reduced as a result of this section.

(n) Notwithstanding any other provision of law, to the extent consistent with Section 1396a(h) of Title 42 of the United States Code, and except as provided by this section, no maximum payment limit shall be placed on the amount of Medi-Cal payment adjustments which may be made to disproportionate share hospitals. The payments made to disproportionate share hospitals pursuant to this section and Section 14105.99 shall not cause any other amounts paid or payable to a hospital to be deemed in excess of any applicable maximum payment limit.

(o) The department shall promptly seek any necessary federal approvals in order to implement this section. Pursuant to Section 1396r-4 of Title 42 of the United States Code, and related federal medicaid statutes and regulations, payment adjustment systems for inpatient hospital services rendered by disproportionate share hospitals shall be included in a state's medicaid plan. Therefore, the department shall, prior to the end of the calendar quarter during which this section is enacted, submit for federal approval an amendment to the Medi-Cal State Plan in connection with the payment adjustment program.

(p) If, for any payment adjustment year, the amounts in the fund, when matched by federal funds pursuant to customary Medi-Cal accounting procedures, are insufficient to pay some or all of the payment adjustment amounts otherwise due under this section, payment adjustment amounts shall be reduced in accordance with the following paragraphs to resolve the insufficiency.

(1) All payment adjustment amounts for the entire payment adjustment year, except those referred to in paragraph (3) of subdivision (*l*), shall be reduced by an identical percentage, not to exceed 2 percent of the total payment adjustment amounts which otherwise would have been paid for the entire payment adjustment year.

(2) If the payment reductions authorized by paragraph (1) do not resolve the insufficiency for the payment adjustment year, then, to the extent permitted by federal law, the following shall apply:

(A) The payment adjustment amounts, as reduced by paragraph 1, shall remain in effect for each eligible hospital whose licensee is a public entity, as defined in Section 14163.

(B) The payment adjustment amounts, as reduced by paragraph (1), for all other eligible hospitals shall be further reduced by that additional identical percentage necessary to resolve the insufficiency.

(3) If the steps set forth in paragraph (2) are not permissible under federal law, or are not adequate to resolve the insufficiency, the payments to all eligible hospitals for the entire payment adjustment year shall be reduced, or further reduced, by that additional identical percentage necessary to resolve the insufficiency.

(q) (1) If it is necessary to apply the provisions of paragraph (3) of subdivision (p) at any time, the department shall, as soon as practicable, evaluate why the insufficiency arose and identify the projected occurrence and duration of any future insufficiencies.

(2) If the department determines as a result of the evaluations under paragraph (1) that (A) implementation of paragraph (3) of subdivision (p) will likely be necessary to resolve additional insufficiencies for the current payment adjustment year or the next payment adjustment year; and (B) that the level of federal financial participation realized by the payment adjustment program, for the current payment adjustment year as a whole, will be less than 25 percent of the percentage of federal financial participation that normally is applicable for Medi-Cal expenditures for acute inpatient hospital services, and that the level of federal financial participation for the payment adjustment program is expected to continue to remain below that 25 percent level for the next payment adjustment year as a whole, the department shall, as soon as practicable, implement paragraphs (3) and (4).

(3) If the department determines that the circumstances described in paragraph (2) are present, the payment adjustment program shall be terminated, effective as of the earliest date permissible under federal law. In that event, all installment payments to the fund which are already due pursuant to Section 14163 at the time of the department's determination shall remain due, and shall be collected by the Controller. However, installment payments which are not yet due at that time shall not become due.

(4) Within 90 days after the termination of the payment adjustment program, as referred to in paragraph (3), or as soon as practicable, the department shall determine whether any amounts remain in the fund which are not needed to pay prior payment adjustment amounts under this section. If remaining amounts exist in the fund, they shall be refunded to transferor entities on a pro rata basis, within 45 days after the date of the department's determination.

(r) The state shall be held harmless from any federal disallowance resulting from payments made under this section, and from payments made to hospitals based on transfers accepted by the department under Section 14164. Any hospital that has received payments under this section, or based on transfers accepted by the department under Section 14164 shall be liable for any audit exception or federal disallowance only with respect to the payments made to that hospital. The department shall recoup from a hospital the amount of any audit exception or federal disallowance in the

manner authorized by applicable laws and regulations.

(s) The department may utilize existing administrative appeal procedures for purposes of any appealable matter that arises under the payment adjustment program. The matters that may be appealed shall be limited to those related to paragraph (4) of subdivision (f) of Section 14105.98.

SEC. 3. Section 14105.99 is added to the Welfare and Institutions Code, to read:

14105.99. (a) For purposes of this section, "Attachment 4.19-A" means the Medi-Cal payment adjustment system for acute inpatient hospital services set forth in Attachment 4.19-A of the Medi-Cal State Plan which became effective on or about July 1, 1990.

(b) (1) It is the intent of the Legislature that the annual appropriation for, and distribution of, payments pursuant to Attachment 4.19-A shall be reduced as a result of the payment adjustment program set forth in Section 14105.98, but only when federal approval is gained for that payment adjustment program.

(2) When the payment adjustment program set forth in Section 14105.98 gains federal approval, Attachment 4.19-A shall become inoperative and any appropriated amount for Attachment 4.19-A that is unexpended shall revert to the Health Care Deposit Fund for use in support of the Medi-Cal program.

SEC. 4. Section 14163 is added to the Welfare and Institutions Code, to read:

14163. (a) For purposes of this section, the following definitions shall apply:

(1) "Public entity" means a county, a city, a city and county, the University of California, a local hospital district, a local health authority, or any other political subdivision of the state.

(2) "Hospital" means a health facility that is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility.

(3) "Disproportionate share hospital" means a hospital providing acute inpatient services to Medi-Cal beneficiaries that meets the criteria for disproportionate share status relating to acute inpatient services as adopted by the department for purposes of 42 U.S.C. Sec. 1396r-4 and as set forth in Section 14105.98.

(4) "Disproportionate share list" means the annual list of disproportionate share hospitals for acute inpatient services issued by the department pursuant to Section 14105.98.

(5) "Fund" means the Medi-Cal Inpatient Payment Adjustment Fund.

(6) "Eligible hospital" means, for a particular state fiscal year, a hospital on the disproportionate share list that is eligible to receive payment adjustment amounts under Section 14105.98 during that state fiscal year.

(7) "Transfer year" means the particular state fiscal year during which public entities are required by this section to make an

intergovernmental transfer of funds to the Controller.

(8) "Transferor entity" means a public entity that, for a particular transfer year, is required by this section to make an intergovernmental transfer of funds to the Controller.

(9) "Transfer amount" means the amount of the intergovernmental transfer of funds that this section requires for a particular transferor entity for a particular transfer year.

(10) "Intergovernmental transfer" means a transfer of funds from a public entity to the state, that is local government financial participation in Medi-Cal pursuant to the terms of this section.

(11) "Licensee" means an entity that has been issued a license to operate a hospital by the department.

(12) "Annualized Medi-Cal inpatient paid days" means the total number of Medi-Cal acute inpatient hospital days, regardless of dates of service, for which payment was made by or on behalf of the department to a hospital, under present or previous ownership, during the most recent calendar year ending prior to the beginning of a particular transfer year, including all Medi-Cal acute inpatient covered days of care for hospitals which are paid on a different basis than per diem payments.

(b) The Medi-Cal Inpatient Payment Adjustment Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to, and under the administrative control of, the department for the purposes specified in subdivision (d). The fund shall consist of the following:

(1) Transfer amounts collected by the Controller under this section, whether submitted by transferor entities pursuant to subdivision (i) or obtained by offset pursuant to subdivision (j).

(2) Any other intergovernmental transfers deposited in the fund, as permitted by Section 14164.

(3) Any interest that accrues with respect to amounts in the fund.

(c) Moneys in the fund, which shall not consist of any state general funds, shall be used as the source for the nonfederal share of payments to hospitals pursuant to Section 14105.98. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures, and used to make payments pursuant to Section 14105.98.

(d) Except as otherwise provided in Section 14105.98 or in any provision of law appropriating a specified sum of money to the department for administering this section and Section 14105.98, moneys in the fund shall be used only for the following:

(1) Payments to hospitals pursuant to Section 14105.98.

(2) Transfers to the Health Care Deposit Fund in an amount equal to 8.608 percent of all transfer amounts deposited in the fund, the amount to be determined on a fiscal year basis. These transfers from the fund shall be made on a monthly basis to the Medi-Cal local assistance appropriation item (Item 4260-101-001 of the annual

Budget Act) in support of Medi-Cal expenditures. The amount of these transfers to the Health Care Deposit Fund shall be reduced in the same fashion, and by identical reduction percentages as any reduction of payment adjustment which arises under paragraphs (1) and (3) of subdivision (p) of Section 14105.98.

(e) For the 1991–92 state fiscal year, the department shall determine, no later than 65 days after the enactment of this section, the transferor entities for the 1991–92 transfer year. To make this determination, the department shall utilize the disproportionate share list for the 1991–92 fiscal year, which shall be issued by the department no later than 60 days after the enactment of this section, pursuant to paragraph (1) of subdivision (f) of Section 14105.98. The department shall identify each eligible hospital on the list for which a public entity is the licensee as of July 1, 1991. The public entity that is the licensee of each identified eligible hospital shall be a transferor entity for the 1991–92 transfer year.

(f) The department shall determine, no later than 65 days after the enactment of this section, the transfer amounts for the 1991–92 transfer year. The transfer amounts shall be determined as follows:

(1) The eligible hospitals for 1991–92 shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(2) The eligible hospitals for 1991–92 involving transferor entities as licensees shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals with transferor entities as licensees shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(3) The aggregate sum determined under paragraph (1) shall be divided by the aggregate sum determined under paragraph (2), yielding a factor to be utilized in paragraph (4).

(4) The factor determined in paragraph (3) shall be multiplied by the amount determined for each hospital under paragraph (2). The product of this calculation for each hospital in paragraph (2) shall be divided by 1.827, yielding a transfer amount for the particular transferor entity for the transfer year, except as provided by paragraph (5).

(5) For any transfer year during which federal approval for the payment adjustment program set forth in Section 14105.98 is not effective for any part of the transfer year, the transfer amount

calculated pursuant to paragraph (4) shall be reduced by a percentage that equals the number of days of the transfer year for which federal approval is not effective divided by the total number of days in that transfer year. This reduction shall be spread equally among the monthly installments referred to in subdivision (i).

(g) For the 1991–92 transfer year, the department shall notify each transferor entity in writing of its applicable transfer amount or amounts no later than 65 days after the enactment of this section, which amount or amounts shall be subject to adjustment pursuant to subdivisions (f) and (i).

(h) For the 1992–93 transfer year and subsequent transfer years, transfer amounts shall be determined in the same procedural manner as set forth in subdivision (f), except:

(1) The department shall use all of the following:

(A) The disproportionate share list applicable to the particular transfer year, which shall be issued no later than five days after the beginning of the transfer year, to determine the eligible hospitals.

(B) The total per diem payment adjustment amounts calculated under Section 14105.98 for the particular transfer year.

(C) Data regarding annualized Medi-Cal inpatient paid days for the most recent calendar year ending prior to the beginning of the particular transfer year, as determined from all Medi-Cal paid claims records available through April 1 preceding the particular transfer year.

(D) The status of public entities as licensees of eligible hospitals as of July 1 of the particular transfer year.

Further, the transfer amounts calculated by the department may be increased by a percentage amount consistent with the Medi-Cal State Plan.

(2) The department shall prepare preliminary analyses and calculations regarding potential transfer amounts, and potential transferor entities shall be notified by the department of estimated transfer amounts, at least 60 days before the beginning of the particular transfer year. Written notices of transfer amounts shall be issued no later than five days after the beginning of the particular transfer year. All state agencies shall take all necessary steps in order to supply applicable data to the department to meet these deadlines. The Office of Statewide Health Planning and Development shall provide to the department, no later than March 1 of each year, the data specified by the department, as the data existed on the statewide data base file as of February 1 of each year, from all of the following:

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 of the Health and Safety Code, for hospital fiscal years which ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 of the

Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(D) Any other materials on file with the Office of Statewide Health Planning and Development.

(i) (1) For the 1991–92 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in equal monthly installments. Except as provided below, the first installment shall accrue on July 25, 1991, and all other installments shall accrue on the 5th day of the month.

(2) Notwithstanding paragraph (1), no installment shall be payable to the Controller until that date which is 20 days after the department notifies the transferor entity in writing that the payment adjustment program set forth in Section 14105.98 has gained federal approval as part of the Medi-Cal program.

(3) If any installment that would otherwise be payable under paragraph (1) is not paid because of the provisions of paragraph (2), then subparagraphs (A) and (B) shall be followed when federal approval is gained.

(A) All installments that were deferred based on the provisions of paragraph (2) shall be paid no later than 20 days after the department notifies the transferor entity in writing that federal approval has been gained, in an amount consistent with subparagraph (B).

(B) The installments paid pursuant to subparagraph (A) shall be paid in full, subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(4) All installments for the 1991–92 transfer year that arise in months after federal approval is gained shall be paid by the 5th day of the month or 20 days after the department notifies the transferor entity in writing that federal approval has been gained, whichever is later. These installments shall be subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(5) For the 1992–93 transfer year and subsequent transfer years, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in equal monthly installments. The first installment shall be payable on July 10 of each transfer year. All other installments shall be payable on the 5th day of the month.

(6) A transferor entity may use any of the following funds for purposes of meeting its transfer obligations under this section:

(A) General funds of the transferor entity.

(B) Any other funds permitted by law to be used for these purposes, except that a transferor entity shall not submit to the Controller any federal funds unless those federal funds are authorized by federal law to be used to match other federal funds.

The transferor entity shall be responsible for determining that funds transferred meet the requirements of this subparagraph.

(j) If a transferor entity does not submit any transfer amount within the time period specified in this section, the Controller shall offset immediately the amount owed against any funds which otherwise would be payable by the state to the transferor entity. The Controller, however, shall not impose an offset against any particular funds payable to the transferor entity where the offset would violate state or federal law.

(k) All amounts received by the Controller pursuant to subdivision (i), or offset by the Controller pursuant to subdivision (j), shall immediately be deposited in the fund.

(*l*) For purposes of this section, the disproportionate share list utilized by the department for a particular transfer year shall be identical to the disproportionate share list utilized by the department for the same state fiscal year for purposes of Section 14105.98. Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.

(m) Neither the intergovernmental transfers required by this section, nor any elective transfer made pursuant to Section 14164, shall create, lead to, or expand the health care funding or service obligations for current or future years for any transferor entity, except as required of the state by this section or as may be required by federal law, in which case the state shall be held harmless by the transferor entities on a pro rata basis.

(n) No amount submitted to the Controller pursuant to subdivision (i), or offset by the Controller pursuant to subdivision (j), shall be claimed or recognized as an allowable element of cost in Medi-Cal cost reports submitted to the department.

SEC. 5. Section 14164 is added to the Welfare and Institutions Code, to read:

14164. In addition to the required intergovernmental transfers set forth in Section 14163, any county, other political subdivision of the state, or governmental entity in the state may elect to transfer funds, subject to subdivision (m) of Section 14163, to the department in support of the Medi-Cal program. Those transfers may consist of cash or loans to the state. The department shall have the discretion to accept or not accept any elective transfer from a county, political subdivision, or other governmental entity, as well as the discretion of whether to deposit the transfer in the Medi-Cal Inpatient Payment Adjustment Fund established pursuant to Section 14163. If the department accepts a transfer pursuant to this section, the department shall obtain federal matching funds to the full extent permitted by federal law.

SEC. 5.5. For purposes of this act, all references to "federal law" are references to the federal statutes and regulations that pertain to

the federal medicaid program.

SEC. 5.6. While it is the intent of the Legislature that the provisions of this act shall be largely self-executing, the State Department of Health Services and the Controller may, jointly or separately, adopt emergency regulations if necessary for the prompt and effective implementation of this act.

SEC. 6. The sum of seven hundred fifty thousand dollars ($750,000), to be matched by federal medicaid funds, is hereby appropriated to the State Department of Health Services from the Medi-Cal Inpatient Payment Adjustment Fund created by Section 14163 of the Welfare and Institutions Code for the 1991–92 fiscal year for the administrative costs incurred by the department in implementing Sections 14105.98 and 14163 of the Welfare and Institutions Code. It is the intent of the Legislature to provide funding for subsequent fiscal year administrative costs from the Medi-Cal Inpatient Payment Adjustment Fund in the applicable Budget Act, to be matched by federal medicaid funds.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are additional revenues 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.

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

In order to ensure that sufficient funding is available to compensate disproportionate share hospitals for vital health care services during the 1991–92 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 280

An act to amend Sections 1901 and 1905 of the Corporations Code, relating to corporations.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 1901 of the Corporations Code is amended to read:

1901. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be

filed.

(b) The certificate shall be an officers' certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more shareholders authorized to do so by shareholders holding shares representing 50 percent or more of the voting power and shall set forth:

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of shareholders, the number of shares voting for the election and that the election was made by shareholders representing at least 50 percent of the voting power.

(3) If the certificate is executed by a shareholder or shareholders, that the subscribing shareholder or shareholders were authorized to execute the certificate by shareholders holding shares representing at least 50 percent of the voting power.

(4) If the election was made by the board pursuant to subdivision (b) of Section 1900, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in said subdivision.

(c) If an election to dissolve made pursuant to subdivision (a) of Section 1900 is made by the vote of all the outstanding shares and a statement to that effect is added to the certificate of dissolution pursuant to Section 1905, the separate filing of the certificate of election pursuant to this section is not required.

SEC. 2. Section 1905 of the Corporations Code is amended to read:

1905. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(5) If no certificate of election is to be filed pursuant to subdivision (c) of Section 1901, that the election to dissolve was made by the vote of all the outstanding shares.

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed. However, before any corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) may file a certificate of dissolution it shall file or cause to be filed the certificate of satisfaction of the Franchise Tax Board that all taxes imposed under the Bank and Corporation Tax Law have been paid or secured.

SEC. 3. Section 1905 of the Corporations Code is amended to read:

1905. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That a person or corporation assumes the tax liability, if any, of the dissolving corporation as security for the issuance of a tax clearance certificate from the Franchise Tax Board and is responsible for additional corporate taxes, if any, that are assessed and that become due after the date of the assumption of the tax liability.

(4) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(5) That the corporation is dissolved.

(6) If no certificate of election is to be filed pursuant to subdivision (c) of Section 1901, that the election to dissolve was made by the vote of all the outstanding shares.

(b) The assumption agreement specified in paragraph (3) of subdivision (a) shall be submitted to the Secretary of State for transmittal to the Franchise Tax Board. The statement provided for in paragraph (3) of subdivision (a) need not be set forth in the certificate if the assumption agreement specified therein is submitted to the Secretary of State with the certificate.

(c) The certificate of dissolution shall be filed with the Secretary of State and thereupon the corporate powers, rights, and privileges of the corporation shall cease. The Secretary of State shall notify the Franchise Tax Board of the filing and shall forward to the Franchise

Tax Board any statement of assumption of tax liability accompanying the certificate of dissolution. The Franchise Tax Board shall determine from the available evidence whether or not all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured and shall notify the taxpayer of any outstanding tax liability and the necessity of satisfying the liability. The Franchise Tax Board shall notify the Secretary of State when all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured, at which time the corporation shall be dissolved as of the date of filing the certificate of dissolution and thereupon its corporate existence shall cease.

(d) When a corporation files a certificate of dissolution the Secretary of State shall notify the corporation that the corporation will be dissolved as of the date of filing only if the Franchise Tax Board notifies the Secretary of State that all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured.

SEC. 4. Section 3 of this bill incorporates amendments to Section 1905 of the Corporations Code proposed by both this bill and AB 1415. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 1905 of the Corporations Code, and (3) this bill is enacted after AB 1415, in which case Section 2 of this bill shall not become operative.

CHAPTER 281

An act to amend Section 7512 of, and to add Section 22850.5 to, the Government Code, relating to public employees.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 7512 of the Government Code is amended to read:

7512. Each state and local public pension or retirement system shall, on and after the 90th day following the completion of the annual audit of the system, mail or otherwise provide to any member who makes a request therefor and pays, if required, a fee, a concise annual report on the investments and earnings of the system and other related matters. The report shall be published in a low-cost format.

Each local public pension or retirement system may impose a fee

for each copy of the report in an amount sufficient to pay all costs incurred in the preparation and dissemination of the report.

SEC. 2. Section 22850.5 is added to the Government Code, to read:

22850.5. If the board administers any specialized health service plan, then it may also offer coverage in the specified health service plan to a contracting agency which has also filed a resolution for coverage in a health benefits plan under this part.

SEC. 3. (a) No reimbursement is required by Section 1 of this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of Section 1 of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

(b) Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that Section 2 of this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed 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 Section 2 of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 282

An act to amend Sections 1130, 1137, 1141, 1150, 1156.5, 1161, 1164, 1166, 1178, and 1200 of, and to repeal Section 1194 of, the Harbors and Navigation Code, relating to pilots.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991]

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

SECTION 1. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. The pilots shall appoint one of their members to act as port agent to carry out the orders of the board, other applicable laws, and otherwise administer the affairs of the pilots. The appointment shall be subject to the confirmation of the board.

SEC. 2. Section 1137 of the Harbors and Navigation Code is

amended to read:

1137. (a) The account shall show all of the following:

(1) The name of each vessel piloted.

(2) The name of the vessel's master.

(3) The name of each vessel for which pilotage has been charged or collected.

(4) The amount charged to or collected from each.

(5) Any rebates made and allowed and for what amounts.

(6) Where the vessel is registered.

(7) The depth of each vessel's draft and its highest gross tonnage.

(8) Whether the vessel was inward or outward bound.

(b) The administrative assistant/secretary of the board shall record the accounts in full detail in a book prepared for that purpose. The account book is a public record.

SEC. 3. Section 1141 of the Harbors and Navigation Code is amended to read:

1141. (a) Each pilot license shall be valid for a period of one year and shall be renewed upon application and successful completion of the physical examination required by Section 1176.

(b) A pilot license shall not be renewed if the pilot possessing the license does not actively pilot vessels for any consecutive period of one year, unless the board determines the pilot is qualified and makes one of the following findings:

(1) The pilot has presented satisfactory proof of medical disability during that period.

(2) The board has granted the pilot a leave of absence without pay during that period.

(3) The pilot has been serving as port agent under Section 1130.

(c) A pilot licensee shall at all times hold an active and proper license to pilot vessels on the waters on which the pilot operates.

(d) The board may revoke or suspend the license of any pilot who does not use proper equipment maintained exclusively for pilotage or who operates on territorial waters not described in the license.

SEC. 4. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the state government a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms, which is a substantial user of pilotage service in San Francisco, San Pablo, and Suisun Bays, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators which specifically represents the owners and operators of vessels or barges

engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during their term of office or within the two years preceding their appointment, public members appointed on or after January 1, 1991, shall not have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company which is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company which is a substantial user of pilot services or an association of companies which are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, nothing in this chapter prohibits the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of which were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, and shall not be appointed for more than two terms. Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively, and no person shall be appointed for more than two terms. Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

SEC. 5. Section 1156.5 of the Harbors and Navigation Code is amended to read:

1156.5. The executive director shall serve at the pleasure of the board and shall be under the direct supervision of the board. The term of office to which the executive director is appointed is five years. The executive director may be appointed, reappointed, or

removed from office only by a vote of at least four members of the board, including at least one industry member, one pilot member, and one public member. The board may delegate to the executive director any of the following functions:

(a) The administration of personnel employed by the board, in accordance with the civil service laws.

(b) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of receipts, and disbursements of the board in accordance with law.

(c) The issuance and countersigning of licenses, which shall also be signed by the president of the board.

(d) The administration of matters and the maintenance of files pertaining to actions taken against licenses issued by the board.

(e) The investigation of and reporting on a navigational incident or other matter for which a license issued by the board may be revoked or suspended.

(f) To work with the pilot evaluation committee to recommend to the board improvements in the pilot training program.

(g) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment and with the oil and hazardous chemical shipping industry.

(h) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to, performing research and obtaining documents and other evidence for board activities, including rate hearings.

SEC. 6. Section 1161 of the Harbors and Navigation Code is amended to read:

1161. All amounts generated by the pension plan shall be used solely to pay pensions to retired pilots, disabled pilots, and the surviving spouses of pilots.

SEC. 7. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) A pilot shall be eligible for the pension provided in Section 1163 if the pilot meets all of the following requirements:

(1) Held a license as a pilot and served at least 10 years in that capacity or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the Board of Pilot Commissioners, based upon competent medical evidence, that the pilot is unable to perform the duties of a pilot. As used in this chapter, "disabled" means a disability of permanent or extended and uncertain duration, as determined by the board, on the basis of competent medical opinion.

(c) (1) A surviving spouse of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if the deceased pilot spouse died after January 1, 1972, and if the deceased pilot had held a license as a pilot.

(2) In order for a surviving spouse to be eligible for any pension benefits pursuant to this chapter, the surviving spouse shall have been legally married to the deceased pilot for at least one year prior to the deceased pilot's death.

(3) A surviving spouse of a deceased pilot shall neither be eligible for nor receive pension benefits pursuant to this chapter if the surviving spouse remarries.

SEC. 8. Section 1166 of the Harbors and Navigation Code is amended to read:

1166. The benefits actually paid out each month to all retired and disabled pilots, and to surviving spouses of deceased pilots, shall be equal to the revenue during the preceding month. The amount of the revenue paid to each of those persons, whether greater or less than the aggregate pensions to which those persons are entitled, shall be paid to each of them in proportion to the relative amounts of the revenue to which they are entitled.

SEC. 9. Section 1178 of the Harbors and Navigation Code is amended to read:

1178. Persons applying for an original license shall not receive a license unless they have proper federal endorsements allowing them to pilot on the high seas and all the waters of those bays pursuant to Section 1171.

SEC. 10. Section 1194 of the Harbors and Navigation Code is repealed.

SEC. 11. Section 1200 of the Harbors and Navigation Code is amended to read:

1200. The board shall make recommendations to the Legislature on the rates for pilotage which should be established pursuant to Sections 1190 to 1192, inclusive.

The board shall, from time to time, review pilotage expenses and establish guidelines for the evaluation and application of these expenses regarding its recommendations for adjustments in rates.

CHAPTER 283

An act to amend Sections 41850 and 41853 of, to add Sections 41851.2 and 41851.7 to, and to repeal and add Sections 41851 and 41851.5 of, the Education Code, relating to school transportation.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 41850 of the Education Code is amended to read:

41850. (a) Apportionments made pursuant to this article shall only be made for home-to-school transportation and special

education transportation, as defined in this section.

(b) As used in this article, "home-to-school transportation" includes all of the following:

(1) The transportation of pupils between their homes and the regular full-time day school they attend, as provided by a school district or county superintendent of schools.

(2) The payment of moneys by a school district or county superintendent of schools to parents or guardians of pupils made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend.

(3) Providing board and lodging to pupils by a school district or county superintendent of schools made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend.

(4) The transportation of pupils between the regular full-time day schools they would attend and the regular full-time occupational training classes they attend, as provided by a regional occupational center or program.

(5) The transportation of individuals with exceptional needs as specified in their individualized education programs, who do not receive special education transportation as defined in subdivision (d).

(6) The payment of moneys by a school district or county superintendent of schools for the replacement or acquisition of schoolbuses.

(c) For purposes of this article, the computation of the allowances provided to a regional occupational center or program shall be subject to all of the following:

(1) A regional occupational center or program shall receive no allowance for 50 percent of the total transportation costs.

(2) A regional occupational center or program shall be eligible for a transportation allowance only if the total transportation costs exceed 10 percent of the total operational budget of the regional occupational center or program.

(3) A regional occupational center or program eligible for a transportation allowance pursuant to paragraph (2) shall receive an amount equal to one-third of the transportation costs subject to reimbursement.

(d) As used in this article, "special education transportation" means either:

(1) The transportation of severely handicapped special day class pupils, and orthopedically handicapped pupils who require a vehicle with a wheelchair lift, who received transportation in the prior fiscal year, as specified in their individualized education program.

(2) A vehicle that was used to transport special education pupils.

SEC. 2. Section 41851 of the Education Code is repealed.

SEC. 3. Section 41851 is added to the Education Code, to read:

41851. (a) For the 1992–93 fiscal year, from Section A of the State School Fund, the Superintendent of Public Instruction shall

apportion to each school district or county superintendent of schools, as appropriate, an amount computed pursuant to this section. School districts and county superintendents of schools that provide transportation services by means of a joint powers agreement, a cooperative pupil transportation program, or a consortium shall receive transportation allowances pursuant to this section.

(b) For the 1992–93 fiscal year, each school district or county office of education shall receive a home-to-school transportation apportionment equal to the transportation allowance received in the prior fiscal year reduced by the amount of the special education transportation allowance identified pursuant to Section 41851.5.

(c) For the 1993–94 fiscal year and each fiscal year thereafter, each school district or county office of education shall receive a home-to-school transportation allowance received in the prior fiscal year, but in no event shall that home-to-school transportation allowance exceed the prior year's approved home-to-school transportation costs, increased by the amount provided in the Budget Act.

SEC. 4. Section 41851.2 is added to the Education Code, to read:

41851.2. No later than December 31, 1992, the Superintendent of Public Instruction shall develop guidelines for use by individualized education program teams during their annual reviews pursuant to Section 56343, which guidelines shall specify when special education transportation services, as defined in Section 41850, are required.

SEC. 5. Section 41851.5 of the Education Code is repealed.

SEC. 6. Section 41851.5 is added to the Education Code, to read:

41851.5. (a) For the 1992–93 fiscal year and each fiscal year thereafter, from Section A of the State School Fund, the Superintendent of Public Instruction shall apportion to each school district or county superintendent of schools, as appropriate, an amount computed pursuant to this section. School districts and county superintendents of schools that provide special education transportation services by means of a joint powers agreement, a cooperative pupil transportation program, or a consortium shall receive special education transportation allowances pursuant to this section.

(b) For the 1992–93 fiscal year, each school district or county office of education shall receive a special education transportation allowance equal to the lesser of the following:

(1) The prior year's approved special education transportation costs identified pursuant to Section 41850.

(2) That portion of the prior year's transportation allowance that the school district or county superintendent of schools designates as a special education transportation allowance.

(c) For the 1993–94 fiscal year and each fiscal year thereafter, each school district or county office of education shall receive a special education transportation allowance received in the prior fiscal year, but in no event shall that special education transportation allowance exceed the prior year's approved special education transportation

costs, increased by the amount provided in the annual Budget Act.

SEC. 6.5. Section 41851.7 is added to the Education Code, to read:

41851.7. For the purpose of receiving an allowance pursuant to this section, a school district, county superintendent, or joint powers agency which transfers any part of its pupil transportation service to another entity shall report to the Superintendent of Public Instruction the proportion of the costs in the fiscal year prior to the transfer that are attributable to the part of the service transferred. In determining the allowance for the fiscal years subsequent to the transfer, the Superintendent of Public Instruction, prior to the application of any cost-of-living adjustment, shall reduce the allowance of the entity transferring the service in proportion to the costs reported, and, if appropriate, increase or establish the allowance of the entity assuming the transferred service by that amount.

SEC. 7. Section 41853 of the Education Code is amended to read:

41853. If a school district or county superintendent of schools decides to discontinue its transportation services, any unencumbered funds remaining in the restricted home-to-school transportation account after transportation services are discontinued shall be transferred to the general fund of the district or county superintendent.

In the fiscal year in which the funds are transferred, the Superintendent of Public Instruction shall reduce the state apportionment pursuant to Section 2558 or 42238 to the district or county superintendent by the amount of the funds transferred from the restricted home-to-school transportation account to the general fund of the district or county superintendent, exclusive of reimbursements for prior year expenditures to Section 41851.5.

SEC. 8. The provisions of this act shall become operative July 1, 1992.

CHAPTER 284

An act to amend Sections 199.70 and 199.71 of the Health and Safety Code, relating to acquired immune deficiency syndrome.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991]

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

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

(a) The incidence of adult and pediatric acquired immune deficiency syndrome (AIDS) cases and infection with the human immunodeficiency virus (HIV) is increasing rapidly among many of California's women and children.

(b) Dissemination of information to health care providers and other agencies which come into contact with special populations, particularly women and children, who are at risk of HIV infection is critical to efforts to properly identify and treat HIV infection.

(c) AIDS service agencies have a need for information about the new manner in which HIV is manifesting itself among women and children.

(d) The availability of quality screening and treatment services by providers who are knowledgeable of the latest information is critical for both treating the diseases manifested by HIV infection and to assure that infected individuals are aware of their infection and properly educated about transmission of HIV to others.

SEC. 2. Section 199.70 of the Health and Safety Code is amended to read:

199.70. The intent of the Legislature in enacting this chapter is as follows:

(a) To fund specified pilot AIDS education programs.

(b) To fund pilot projects to demonstrate the value of noninstitutional health care services such as hospice, home health, and attendant care in controlling costs and providing humane care to people with AIDS and AIDS-related conditions.

(c) To fund clinical research.

(d) To fund the development of an AIDS Mental Health Project.

(e) To fund specified needs assessments, studies, and program evaluations.

(f) To authorize the use of funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for preventive education for individuals who are seropositive as a result of antibody testing.

(g) To promote broad-based support for AIDS programs by encouraging community level networking and coordination of efforts among private sector, nonprofit, and public service agencies as well as health care professionals and providers of essential services.

(h) To promote an aggressive community-based HIV infection prevention program in all communities and areas where behaviors and prevalence indicate high risk of HIV infection, and to encourage local programs to involve racial and ethnic minorities in a leading role to plan the development, implementation, and evaluation of preventive education, HIV testing, delivery of care, and research activities that are necessary to the formation of a comprehensive, community-based, culturally sensitive HIV infection prevention strategy.

(i) To promote education of health care practitioners concerning new clinical manifestations of HIV, particularly among women and children.

SEC. 3. Section 199.71 of the Health and Safety Code is amended to read:

199.71. (a) The State Department of Health Services shall:

(1) Additionally, use funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for purposes of making reimbursements to

counties pursuant to Section 1632, for preventive education for individuals who are seropositive as a result of antibody testing.

(2) Issue contracts to evaluate the effectiveness of the AIDS information and education program conducted by the state department.

(3) Issue contracts for development and implementation of pilot programs of professional education and training for hospital, home health agency, and attendant care workers.

(4) Issue contracts for the development and implementation of pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug users with AIDS or AIDS-related conditions.

(5) Monitor state and federal AIDS-related budget and policy development, and coordinate budget items to ensure that funding for matters related to AIDS is adequate and complete within the state department each fiscal year.

(6) Develop and maintain an information clearinghouse within the state department including periodic updates or releases to inform health professionals or community organizations providing services to people with AIDS or AIDS-related conditions of the status of current or new clinical drug trials. These updates shall be compiled through review of scientific journals and in conjunction with the UC AIDS Task Force and researchers conducting clinical drug trials in California.

(7) Review, edit, and input summaries from scientific journals into the Computerized AIDS Information Network (CAIN), and do outreach about CAIN availability to health professionals.

(8) Develop and conduct a needs assessment of the availability of supportive services for people with AIDS or AIDS-related conditions. The needs assessment shall be conducted in conjunction with the state's AIDS education contractors and with any public or private agencies providing services to people with AIDS or AIDS-related conditions.

(9) Promote information and education programs for the general public to correct misinformation about AIDS. This shall include, but need not be limited to, periodic press releases to the printed and broadcast media and public service announcements.

(10) Prepare a report to the Legislature on the feasibility of coordinating various levels of health care, including health facility licensure categories within one program in a city and county which would serve persons with HIV infections, AIDS-related complex, and AIDS. The levels of health care to be covered in the report include, but are not limited to, general acute care hospital, acute psychiatric hospital, skilled nursing facility, hospice, intermediate care facility, residential care facility, adult day health care facility, and congregate living health facility. The report shall be developed in cooperation with the Office of Statewide Health Planning and Development, and shall be submitted to the Legislature before July 1, 1990. The State Director of Health Services may contract for services necessary for

completion of the report that cannot be provided through existing resources of the state department.

(11) Establish, with the assistance of other state agencies as the state department deems appropriate, centralized translation services to facilitate development of multilanguage, culturally relevant educational materials on HIV infection.

(12) Include, to the extent feasible, in its HIV surveillance and reporting practices, a breakdown of the major Asian-Pacific Islander subgroup populations. This breakdown shall be reflected in the surveillance and morbidity statistics issued by the director pursuant to Section 199.73.

(13) Include, to the extent feasible with existing resources, in its HIV surveillance and reporting practices, information concerning newly identified clinical manifestations of HIV infection and available resources for health care practitioners to seek diagnostic and treatment information.

(b) The State Director of Health Services shall contract for a prospective two-year study to accomplish the following objectives:

(1) Determine the medical costs of AIDS, comparing inpatient care, outpatient care, physician services, and community support services.

(2) The study shall include cost factors in the review of inpatient costs which may not be apparent in the analysis of charges, such as private rooms and social work.

The study shall include an interim report to the Legislature six months after receipt of funding and a final report to the Legislature within two years of receipt of funding so that the state can be in a knowledgeable position to plan for and provide the services and funding needed to meet this public health crisis.

(c) Notwithstanding Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the State Director of Health Services determines that it is in the best interest of the state to enter into a contract for the purposes specified below without competitive bids, then the state director may, during the 1985–86 fiscal year, enter into a sole source contract for all of the following:

(1) Educational program evaluation.

(2) Education of hospital, home health agency, and attendant care workers.

(3) Drug education and treatment programs.

(4) The cost-of-care study.

(d) Notwithstanding Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the State Director of Health Services determines that it is in the best interest of the state to enter into a contract for the purposes of the preparation of the feasibility report required by paragraph (10) of subdivision (a) without competitive bids, then the state director may enter into a sole source contract for the preparation of the feasibility report. The contract for the feasibility report shall be exempt from

the requirement of approval by the Department of General Services and the Department of Finance.

SEC. 4. It is the intent of the Legislature that the State Department of Health Services implement the provisions of this act with existing funds.

CHAPTER 285

An act to amend Sections 21174, 30010, 30213, 30214, 30240, 30301, 30301.2, 30301.5, 30304, 30310.5, 30314, 30316, 30317, 30318, 30333.1, 30333.2, 30334, 30335.1, 30336, 30339, 30340, 30341, 30401, 30411, 30412, 30418, 30510, 30511, 30516, 30517, 30519, 30521, 30525, 30604, 30610.2, 30610.4, 30620, 30621, 30622, 30623, 30625, 30626, 30627, 30720, 30801, 30804, and 30806 of, and to repeal Section 30304.5 of, the Public Resources Code, relating to coastal resources.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 21174 of the Public Resources Code is amended to read:

21174. No provision of this division is a limitation or restriction on the power or authority of any public agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer, including, but not limited to, the powers and authority granted to the California Coastal Commission pursuant to Division 20 (commencing with Section 30000). To the extent of any inconsistency or conflict between the provisions of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) and the provisions of this division, the provisions of Division 20 (commencing with Section 30000) shall control.

SEC. 2. Section 30010 of the Public Resources Code is amended to read:

30010. The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

SEC. 3. Section 30213 of the Public Resources Code is amended to read:

30213. Lower cost visitor and recreational facilities shall be

protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

SEC. 3.5. Section 30214 of the Public Resources Code is amended to read:

30214. (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

SEC. 4. Section 30240 of the Public Resources Code is amended to read:

30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and

designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

SEC. 5. Section 30301 of the Public Resources Code is amended to read:

30301. The commission shall consist of the following 15 members:

(a) The Secretary of the Resources Agency.

(b) The Secretary of the Business and Transportation Agency.

(c) The Chairperson of the State Lands Commission.

(d) Six representatives of the public from the state at large. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint two of these members.

(e) Six representatives selected from six coastal regions. The Governor shall select one member from the north coast region and one member from the south central coast region. The Speaker of the Assembly shall select one member from the central coast region and one member from the San Diego coast region. The Senate Committee on Rules shall select one member from the north central coast region and one member from the south coast region. For purposes of this division, these regions are defined as follows:

(1) The north coast region consists of the Counties of Del Norte, Humboldt, and Mendocino.

(2) The north central coast region consists of the Counties of Sonoma and Marin and the City and County of San Francisco.

(3) The central coast region consists of the Counties of San Mateo, Santa Cruz, and Monterey.

(4) The south central coast region consists of the Counties of San Luis Obispo, Santa Barbara, and Ventura.

(5) The south coast region consists of the Counties of Los Angeles and Orange.

(6) The San Diego region consists of the County of San Diego.

SEC. 6. Section 30301.2 of the Public Resources Code is amended to read:

30301.2. (a) The appointments of the Governor, the Senate Committee on Rules, and the Speaker of the Assembly, pursuant to subdivision (e) of Section 30301, shall be made as prescribed in this section. The boards of supervisors and city selection committee of each county within the region shall nominate supervisors or council members who reside in the region from which the Governor, the Senate Committee on Rules, or the Speaker of the Assembly shall appoint a replacement. In regions composed of three counties, the boards of supervisors and the city selection committee in each county within the region shall each nominate one or more supervisors or council members. In regions composed of two counties, the boards of supervisors and the city selection committee in each county within the region shall each nominate not less than two supervisors and two council members. In regions composed of one county, the board of supervisors and city selection committee in the county shall nominate not less than three supervisors and three

council members. Immediately upon selecting the nominees, the board of supervisors and city selection committee shall send the names of the nominees to either the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, whoever will appoint the replacement.

(b) Within 30 days after receiving the names of the nominees pursuant to subdivision (a), the Governor, the Speaker of the Assembly, or the Senate Committee on Rules, whoever will appoint the replacement, shall either appoint one of the nominees or notify the boards of supervisors and city selection committees within the region that none of the nominees are acceptable and request the boards of supervisors and city selection committees to make additional nominees. Within 60 days after receipt of a notice rejecting all the nominees, the boards of supervisors and city selection committees within the region shall nominate and send to the appointing authority additional nominees pursuant to subdivision (a). Upon receipt of the names of the nominees, the appointing authority shall appoint one of the nominees.

SEC. 7. Section 30301.5 of the Public Resources Code is amended to read:

30301.5. Members of the commission serving under subdivision (a), (b), or (c) of Section 30301 shall be nonvoting members and may appoint a designee to serve at his or her pleasure who shall have all the powers and duties of the member pursuant to this division.

SEC. 8. Section 30304 of the Public Resources Code is amended to read:

30304. Any member of the commission may, subject to the confirmation of his or her appointing power, appoint an alternate member to represent him or her at any commission meeting. An alternate may serve prior to confirmation for a period not to exceed 90 days from the date of appointment unless and until confirmation is specifically refused. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties as a member of the commission, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

All provisions of law relating to conflicts of interest that are applicable to a member shall apply to an alternate member. Whenever a member has, or is known to have, a conflict of interest on any matter, the member's alternate is not eligible to vote on that matter.

SEC. 9. Section 30304.5 of the Public Resources Code is repealed.

SEC. 10. Section 30310.5 of the Public Resources Code is amended to read:

30310.5. No provision of this division or any other law, including any doctrine of common law, shall preclude or prevent the appointment, as a public member, to the commission of any person who is not a locally elected official.

SEC. 11. Section 30314 of the Public Resources Code is amended

to read:

30314. Except as provided in this section, members or alternates of the commission shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for those expenses is not otherwise provided or payable by another public agency or agencies, and shall receive fifty dollars ($50) for each full day of attending meetings of the commission. In addition, members or alternates of the commission shall receive twelve dollars and fifty cents ($12.50) for each hour actually spent in preparation for a commission meeting; provided, however, that for each meeting no more than eight hours of preparation time shall be compensated as provided herein.

An alternate shall be entitled to payment and reimbursement for the necessary expenses incurred in participating in commission meetings; provided, however, that only the member or his or her alternate shall receive that payment and reimbursement, and if both the member and alternate prepare for, attend, and participate in any portion of a commission meeting, only the alternate shall be entitled to that payment and reimbursement.

For the purposes of this section, "full day of attending a meeting" means presence at, and participation in, not less than 60 percent of the total meeting time of the commission during any particular 24-hour period.

SEC. 12. Section 30316 of the Public Resources Code is amended to read:

30316. The commission shall elect a chairperson and vice chairperson from among its members.

SEC. 13. Section 30317 of the Public Resources Code is amended to read:

30317. The headquarters of the commission shall be in a coastal county, but it may meet and may exercise any or all of its powers in any part of the state. The commission may maintain regional offices, if it finds that accessibility to, and participation by, the public will be better served or that the provisions of this division can be implemented more efficiently through the maintenance of those offices.

SEC. 14. Section 30318 of the Public Resources Code is amended to read:

30318. Nothing in this division shall preclude or prevent any member or employee of the commission who is also an employee of another public agency, a county supervisor or city councilperson, member of the Association of Bay Area Governments, member of the Association of Monterey Bay Area Governments, delegate to the Southern California Association of Governments, or member of the San Diego Comprehensive Planning Organization, and who has in that designated capacity voted or acted upon a particular matter, from voting or otherwise acting upon that matter as a member or employee of the commission. Nothing in this section shall exempt

any such member or employee of the commission from any other provision of this article.

SEC. 15. Section 30333.1 of the Public Resources Code is amended to read:

30333.1. (a) The commission shall, within six months of the effective date of this section, review its regulations and procedures and determine what revisions, if any, are necessary and appropriate to simplify and expedite the review of any matter that is before the commission for action pursuant to this division. The commission shall, within 60 days thereafter, implement any such revisions it determines to be appropriate, including, but not limited to, a simplified application form for development pursuant to which a permit could be issued pursuant to Section 30624 and procedures that allow reasonable rebuttal time prior to the final vote for both applicants and appellants, if either so requests, in permit matters where new factual material is brought up and where equity would not be served unless such person is provided that rebuttal opportunity.

(b) After the initial review required by this section has been completed, the commission shall thereafter periodically conduct similar reviews so that its regulations and procedures may continue to be as simple and expeditious as practicable.

SEC. 16. Section 30333.2 of the Public Resources Code is amended to read:

30333.2. Notwithstanding any other provision of this code or of law and except as provided in the State Building Standards Law, Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, on and after January 1, 1980, the commission shall not adopt nor publish a building standard as defined in Section 18909 of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the statute under which the authority to adopt rules, regulations, or orders is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted before January 1, 1980, pursuant to this code and not expressly excepted by statute from those provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner. Any building standard expressly required by a provision of federal law specifically requiring that building standard shall be adopted and published in the State Building Standards Code within the time required by federal law.

SEC. 17. Section 30334 of the Public Resources Code is amended to read:

30334. The commission may do the following:

(a) Contract for any private professional or governmental services, if the work or services cannot be satisfactorily performed by *its employees.*

(b) Sue and be sued. The Attorney General shall represent the commission in any litigation or proceeding before any court, board, or agency of the state or federal government.

SEC. 18. Section 30335.1 of the Public Resources Code is amended to read:

30335.1. The commission shall provide for appropriate employees on the staff of the commission to assist applicants and other interested parties in connection with matters which are before the commission for action. The assistance rendered by those employees shall be limited to matters of procedure and shall not extend to advice on substantive issues arising out of the provisions of this division, such as advice on the manner in which a proposed development might be made consistent with the policies specified in Chapter 3 (commencing with Section 30200).

SEC. 19. Section 30336 of the Public Resources Code is amended to read:

30336. The commission shall, to the maximum extent feasible, assist local governments in exercising the planning and regulatory powers and responsibilities provided for by this division where the local government elects to exercise those powers and responsibilities and requests assistance from the commission, and shall cooperate with and assist other public agencies in carrying out this division. Similarly, every public agency, including regional and state agencies and local governments, shall cooperate with the commission and shall, to the extent their resources permit, provide any advice, assistance, or information the commission may require to perform its duties and to more effectively exercise its authority.

SEC. 20. Section 30339 of the Public Resources Code is amended to read:

30339. The commission shall:

(a) Ensure full and adequate participation by all interested groups and the public at large in the commission's work program.

(b) Ensure that timely and complete notice of commission meetings and public hearings is disseminated to all interested groups and the public at large.

(c) Advise all interested groups and the public at large as to effective ways of participating in commission proceedings.

(d) Recommend to any local government preparing or implementing a local coastal program and to any state agency that is carrying out duties or responsibilities pursuant to this division, additional measures to assure open consideration and more effective public participation in its programs or activities.

SEC. 21. Section 30340 of the Public Resources Code is amended to read:

30340. The commission shall be responsible for the management and budgeting of any and all funds that may be appropriated, allocated, granted, or in any other way made available by the commission for expenditure.

SEC. 22. Section 30341 of the Public Resources Code is amended

to read:

30341. The commission may prepare and adopt any additional plans and maps and undertake any studies it determines to be necessary and appropriate to better accomplish the purposes, goals, and policies of this division; provided, however, that the plans and maps shall only be adopted after public hearing.

SEC. 23. Section 30401 of the Public Resources Code is amended to read:

30401. Except as otherwise specifically provided in this division, enactment of this division does not increase, decrease, duplicate or supersede the authority of any existing state agency.

This chapter shall not be construed to limit in any way the regulatory controls over development pursuant to Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700), except that the commission shall not set standards or adopt regulations that duplicate regulatory controls established by any existing state agency pursuant to specific statutory requirements or authorization.

SEC. 24. Section 30411 of the Public Resources Code is amended to read:

30411. (a) The Department of Fish and Game and the Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery management programs and the commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory requirements or authorization.

(b) The Department of Fish and Game, in consultation with the commission and the Department of Boating and Waterways, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any such study shall include consideration of all of the following:

(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values.

(c) The Legislature finds and declares that salt water or brackish water aquaculture is a coastal-dependent use which should be encouraged to augment food supplies and to further the policies set

forth in Chapter 4 (commencing with Section 825) of Division 1. The Department of Fish and Game may identify coastal sites it determines to be appropriate for aquaculture facilities. If the department identifies these sites, it shall transmit information identifying the sites to the commission and the relevant local government agency. The commission, and where appropriate, local governments shall, consistent with the coastal planning requirements of this division, provide for as many coastal sites identified by the Department of Fish and Game for any uses that are consistent with the policies of Chapter 3 (commencing with Section 30200) of this division.

(d) Any agency of the state owning or managing land in the coastal zone for public purposes shall be an active participant in the selection of suitable sites for aquaculture facilities and shall make the land available for use in aquaculture when feasible and consistent with other policies of this division and other provision of law.

SEC. 25. Section 30412 of the Public Resources Code is amended to read:

30412. (a) In addition to Section 13142.5 of the Water Code, this section shall apply to the commission and the State Water Resources Control Board and the California regional water quality control boards.

(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out this division.

(c) Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of the development:

(1) The siting and visual appearance of treatment works within the coastal zone.

(2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for those service areas to

allow for phasing of development and use of facilities consistent with this division.

(3) Development projections which determine the sizing of treatment works for providing service within the coastal zone.

The commission shall make these determinations in accordance with the policies of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission.

(d) The commission shall provide or require reservations of sites for the construction of treatment works and points of discharge within the coastal zone adequate for the protection of coastal resources consistent with the provisions of this division.

(e) Nothing in this section shall require the State Water Resources Control Board to fund or certify for funding, any specific treatment works within the coastal zone or to prohibit the State Water Resources Control Board or any California regional water quality control board from requiring a higher degree of treatment at any existing treatment works.

SEC. 26. Section 30418 of the Public Resources Code is amended to read:

30418. (a) Pursuant to Division 3 (commencing with Section 3000), the Division of Oil and Gas of the Department of Conservation is the principal state agency responsible for regulating the drilling, operation, maintenance, and abandonment of all oil, gas, and geothermal wells in the state. Neither the commission, local government, port governing body, or special district shall establish or impose such regulatory controls that duplicate or exceed controls established by the Division of Oil and Gas pursuant to specific statutory requirements or authorization.

This section shall not be construed to limit in any way, except as specifically provided, the regulatory controls over oil and gas development pursuant to Chapters 7 (commencing with Section 30600) and 8 (commencing with Section 30700).

(b) The Division of Oil and Gas of the Department of Conservation shall cooperate with the commission by providing necessary data and technical expertise regarding proposed well operations within the coastal zone.

SEC. 27. Section 30510 of the Public Resources Code is amended to read:

30510. Consistent with this chapter, a proposed local coastal program may be submitted to the commission, if both of the following are met:

(a) It is submitted pursuant to a resolution adopted by the local government, after public hearing, that certifies the local coastal program is intended to be carried out in a manner fully in conformity

with this division.

(b) It contains, in accordance with guidelines established by the commission, materials sufficient for a thorough and complete review.

SEC. 28. Section 30511 of the Public Resources Code is amended to read:

30511. Local coastal programs shall be submitted in accordance with the schedule established pursuant to Section 30517.5. At the option of the local government, this program may be submitted and processed in any of the following ways:

(a) At one time, in which event Section 30512 with respect to time limits, resubmission, approval, and certification shall apply. However, the zoning ordinances, zoning district maps, and, if required, other implementing actions included in the local coastal program shall be approved and certified pursuant to the standards of Section 30513.

(b) In two phases, in which event the land use plans shall be processed first pursuant to Section 30512, and the zoning ordinances, zoning district maps, and, if required, other implementing actions, shall be processed thereafter pursuant to Section 30513.

(c) In separate geographic units consisting of less than the local government's jurisdiction lying within the coastal zone, each submitted pursuant to subdivision (a) or (b), if the commission finds that the area or areas proposed for separate review can be analyzed for the potential cumulative impacts of development on coastal resources and access independently of the remainder of the affected jurisdiction.

SEC. 29. Section 30516 of the Public Resources Code is amended to read:

30516. (a) Approval of a local coastal program shall not be withheld because of the inability of the local government to financially support or implement any policy or policies contained in this division; provided, however, that this shall not require the approval of a local coastal program allowing development not in conformity with the policies in Chapter 3 (commencing with Section 30200).

(b) Where a certified port master plan has been incorporated in a local coastal program in accordance with Section 30711 and the local coastal program is disapproved by the commission, that disapproval shall not apply to the certified port master plan.

SEC. 30. Section 30517 of the Public Resources Code is amended to read:

30517. The commission may extend, for a period of not to exceed one year, except as provided for in Section 30518, any time limitation established by this chapter for good cause.

SEC. 31. Section 30519 of the Public Resources Code is amended to read:

30519. (a) Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area

affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development proposed within the area to which the certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing the local coastal program or any portion thereof.

(b) Subdivision (a) shall not apply to any development proposed or undertaken on any tidelands, submerged lands, or on public trust lands, whether filled or unfilled, lying within the coastal zone, nor shall it apply to any development proposed or undertaken within ports covered by Chapter 8 (commencing with Section 30700) or within any state university or college within the coastal zone; however, this section shall apply to any development proposed or undertaken by a port or harbor district or authority on lands or waters granted by the Legislature to a local government whose certified local coastal program includes the specific development plans for such district or authority.

(c) The commission may, from time to time, recommend to the appropriate local government local coastal program amendments to accommodate uses of greater than local importance, which uses are not permitted by the applicable certified local coastal program. These uses may be listed generally or the commission may recommend specific uses of greater than local importance for consideration by the appropriate local government.

SEC. 32. Section 30521 of the Public Resources Code is amended to read:

30521. The Legislature hereby finds and declares that the early review of a limited number of local coastal programs may provide valuable experience for future review and processing of local coastal programs and that in consideration of the early commitments made by the involved local governments, any local coastal program prepared for that portion of a local jurisdiction designated as a pilot project area by the California Coastal Zone Conservation Commission between August 31, 1976, and October 31, 1976, shall receive priority from the commission by being processed ahead of other local coastal programs pursuant to this chapter. Any such pilot project may be reviewed and approved by the commission without being subject to the procedures required by Section 30501; provided, that the proposed local coastal program, or portion thereof, is in conformity with the policies of Chapter 3 (commencing with Section 30200), serves as a useful model for future review of local coastal programs, and the regional commission has commenced formal review of the land use phase of a local coastal program by June 1, 1977.

SEC. 33. Section 30525 of the Public Resources Code is amended to read:

30525. (a) Every state agency that owns or manages land or water areas within the coastal zone, including public beaches, parks,

natural areas, and fish and wildlife preserves, shall identify the sensitive resource values within those areas that are particularly susceptible to adverse impacts from nearby development that is not carefully planned. Every such agency shall also identify the location and type of development that would have a significant adverse impact on those sensitive resource values.

(b) Every agency subject to this section shall advise the appropriate local government of particular considerations that should be evaluated during the preparation of a local coastal program and which, in the opinion of such agency, may be necessary to protect identified sensitive resource values. In addition, the work undertaken pursuant to this section shall be completed in a timely manner in order to maximize the opportunity for the public, affected local governments, and the commission to consider this information fully during the preparation, review, and approval of the appropriate local coastal program.

(c) Work already completed pursuant to former Chapter 7 (commencing with Section 31300) of Division 21 of the Public Resources Code, added by Chapter 1441 of the Statutes of 1976, and in conformity with this section, that identifies sensitive resource values within publicly owned or managed land and water areas of the coastal zone shall be considered by local government and the commission in the course of carrying out this chapter.

(d) For purposes of this section, "sensitive resource values" means those fragile or unique natural resources which are particularly susceptible to degradation resulting from surrounding development, the adverse effects of which have not been carefully evaluated, mitigated, or avoided. Examples include, but are not limited to, environmentally sensitive areas, as defined in Section 30107.5, areas uniquely suited for scientific or educational purposes, and specific public recreation areas where the quality of the recreational experience is dependent on the character of the surrounding area.

SEC. 34. Section 30604 of the Public Resources Code is amended to read:

30604. (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in

conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) No development or any portion thereof which is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission on the grounds the proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds which could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

SEC. 35. Section 30610.2 of the Public Resources Code is amended to read:

30610.2. (a) Any person wishing to construct a single-family residence on a vacant lot within an area designated by the commission pursuant to subdivision (b) of Section 30610.1 shall, prior to the commencement of construction, secure from the local government with jurisdiction over the lot in question a written certification or determination that the lot meets the criteria specified in subdivision (c) of Section 30610.1 and is therefore exempt from the coastal development permit requirements of this division. A copy of every certification of exemption shall be sent by the issuing local government to the commission within five working days after it is issued.

(b) If the commission does not designate the areas within the coastal zone as required by subdivision (b) of Section 30610.1 within the 60 days specified therein, a local government may make the certification authorized by subdivision (a) of this section without regard to the requirements of subdivision (b) of Section 30610.1.

SEC. 36. Section 30610.4 of the Public Resources Code is amended to read:

30610.4. Upon establishment of an acquisition cost pursuant to subdivision (f) of Section 30610.3, the commission shall review the

area in question to determine if all or some portion of that area meets the criteria specified in subdivision (b) of Section 30610.1 for areas within which no coastal development permit will be required from the commission for construction of single-family residences. Notwithstanding paragraph (1) of subdivision (c) of Section 30610.1, lots other than those immediately adjacent to any beach or to the mean high tide line where there is no beach can be included in such an exclusion area. If the commission determines an area designated pursuant to subdivision (b) of Section 30610.3 meets that criteria, the area shall be designated as one wherein no coastal development permit from the commission shall be required for the construction of single-family residences.

(b) Prior to the commencement of construction of any single-family residence within an area designated pursuant to this section, a certificate of exemption must be obtained pursuant to Section 30610.2 and the appropriate "in-lieu" public access fee shall be paid.

SEC. 37. Section 30620 of the Public Resources Code is amended to read:

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, the following:

(1) Application and appeal forms.

(2) Reasonable provisions for notification to the regional commission, the commission, and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to assure that a preliminary review of that action for conformity with this chapter can be made.

(3) Interpretive guidelines designed to assist local governments, the regional commissions, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to certification of local coastal programs; provided, however, that these guidelines shall not supersede, enlarge, or diminish the powers or authority of any regional commission, the commission, or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of these procedures to each local government within the coastal zone and shall make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines as it determines to be necessary to better carry out this division.

(c) The commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division.

The funds received under this subdivision shall be expended by the commission only when appropriated by the Legislature.

SEC. 38. Section 30621 of the Public Resources Code is amended to read:

30621. The commission shall provide for a de novo public hearing on applications for coastal development permits and any appeals brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notification. A hearing on any coastal development permit application or an appeal shall be set no later than 49 days after the date on which the application or appeal is filed with the commission.

SEC. 39. Section 30622 of the Public Resources Code is amended to read:

30622. The commission shall act upon the coastal development permit application or an appeal within 21 days after the conclusion of the hearing pursuant to Section 30621.

SEC. 40. Section 30623 of the Public Resources Code is amended to read:

30623. If an appeal of any action on any development by any local government or port governing body is filed with the commission, the operation and effect of that action shall be stayed pending a decision on appeal.

SEC. 41. Section 30625 of the Public Resources Code is amended to read:

30625. (a) Except as otherwise specifically provided in subdivision (a) of Section 30602, any appealable action on a coastal development permit or claim of exemption for any development by a local government or port governing body may be appealed to the commission by an applicant, any aggrieved person, or any two members of the commission. The commission may approve, modify, or deny such proposed development, and if no action is taken within the time limit specified in Sections 30621 and 30622, the decision of the local government or port governing body, as the case may be, shall become final, unless the time limit in Section 30621 or 30622 is waived by the applicant.

(b) The commission shall hear an appeal unless it determines the following:

(1) With respect to appeals pursuant to subdivision (a) of Section 30602, that no substantial issue exists as to conformity with Chapter 3 (commencing with Section 30200).

(2) With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

(3) With respect to appeals to the commission after certification of a port master plan, that no substantial issue exists as to conformity with the certified port master plan.

(c) Decisions of the commission, where applicable, shall guide local governments or port governing bodies in their future actions under this division.

SEC. 42. Section 30626 of the Public Resources Code is amended to read:

30626. The commission may, by regulation, provide for the reconsideration of the terms and conditions of any coastal development permit granted by the commission solely for the purpose of correcting any information contained in those terms and conditions.

SEC. 43. Section 30627 of the Public Resources Code is amended to read:

30627. (a) The commission shall, by regulation, provide procedures which the commission shall use in deciding whether to grant reconsideration of any of the following:

(1) Any decision to deny an application for a coastal development permit.

(2) Any term or condition of a coastal development permit which has been granted.

(b) The procedures required by subdivision (a) shall include at least the following provisions:

(1) Only an applicant for a coastal development permit shall be eligible to request reconsideration.

(2) The request for reconsideration shall be made within 30 days of the decision on the application for a coastal development permit.

(3) The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the initial decision.

(4) The commission shall have the discretion to grant or deny requests for reconsideration.

(c) A decision to deny a request for reconsideration is not subject to appeal.

(d) This section shall not alter any right otherwise provided by this division to appeal an action ; provided, that a request for reconsideration shall be made only once for any one development application, and shall, for purposes of any time limits specified in Sections 30621 and 30622, be considered a new application.

SEC. 44. Section 30720 of the Public Resources Code is amended to read:

30720. If the application of any port master plan or part thereof is prohibited or stayed by any court, the permit authority provided for in Chapter 7 (commencing with Section 30600) shall be reinstated in the commission. The reinstated permit authority shall apply as to any development which would be affected by the prohibition or stay.

SEC. 45. Section 30801 of the Public Resources Code is amended to read:

30801. Any aggrieved person shall have a right to judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure, within 60 days after the decision or action has become final.

For purposes of this section and subdivision (c) of Section 30513 and Section 30625, an "aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the commission, local government, or port governing body in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the commission, local government, or port governing body of the nature of his concerns or who for good cause was unable to do either. "Aggrieved person" includes the applicant for a permit and, in the case of an approval of a local coastal program, the local government involved.

SEC. 46. Section 30804 of the Public Resources Code is amended to read:

30804. Any person may maintain an action to enforce the duties specifically imposed upon the commission, any governmental agency, any special district, or any local government by this division. No bond shall be required for an action under this section.

SEC. 47. Section 30806 of the Public Resources Code is amended to read:

30806. (a) Any civil action under this division by, or against, a city, county, or city and county, the commission, special district, or any other public agency shall, upon motion of either party, be transferred to a county or city and county not a party to the action or to a county or city and county other than that in which the city, special district, or any other public agency which is a party to the action is located.

(b) In any action brought by or against any local government, other than an action brought by or against the commission, that involves the enforcement or implementation of its certified local coastal program, the Department of Justice shall, upon the request of the local government, provide such legal assistance as its resources permit.

CHAPTER 286

An act to amend Sections 8613 and 8625 of, and to add Section 8612.5 to, the Public Resources Code, relating to environmental protection, and making an appropriation therefor.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 8612.5 is added to the Public Resources Code, to read:

8612.5. The trustee is authorized to manage and improve real property for purposes of providing open space, habitat for plants and animals, and public access.

SEC. 2. Section 8613 of the Public Resources Code is amended to read:

8613. (a) Moneys in the fund shall be available for expenditure by the trustee to purchase outstanding interests in tide and submerged lands whether or not they have been filled, diked, or cut off from tidal waters, lands which have been or may be converted to wetlands, or adjoining or nearby lands where the public use and ownership of the land is necessary or extremely beneficial for furtherance of public trust purposes.

(b) Moneys deposited in the fund pursuant to subdivision (b) or (c) of Section 8625 shall be available for expenditure by the trustee for management and improvement of real property held by the trustee to provide open space, habitat for plants and animals, and public access.

SEC. 3. Section 8625 of the Public Resources Code is amended to read:

8625. (a) The consideration passing to the state in title settlements may consist, in whole or in part, of monetary payments to the trustee for deposit into the fund which are subject to a statutory trust limiting their use exclusively to the purchase of interests in a Land Bank Fund parcel and conveyance of those interests to the state pursuant to Section 8626 as soon as practicable thereafter.

(b) A project applicant other than a public agency may donate moneys for deposit to the fund for purposes of mitigation with the approval of the agency responsible for approving the project and the trustee shall accept the donation if land is held by the trustee for those purposes. A donation so deposited is subject to a statutory trust limiting its use exclusively to the identified mitigation.

(c) Any party may deposit moneys into the fund for purposes of specified or unspecified projects to provide for management and improvement of real property held by the trustee to provide open space, habitat for plants and animals, and public access.

CHAPTER 287

An act to amend Sections 45100 and 45318 of the Education Code, relating to employees.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 45100 of the Education Code is amended to read:

45100. Article 2 (commencing with Section 10340) of Chapter 4 of Part 7, Articles 1 to 5, inclusive (commencing with Section 45100), Article 7 (commencing with Section 45340), and the applicable provisions of Sections 44047, 44048, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Chapter 1 (commencing with Section 44000) shall apply to all classified employees of a school district, including those authorized in Sections 35025, 35041, and 35045, whether a merit or nonmerit system district as authorized by this chapter unless the section specifically limits its application to nonmerit system districts. These provisions shall also apply to all persons who are part of the classified service who are employed by the county superintendent of schools, or any division thereof, and whose salaries are paid out of the county school service fund regardless of the origin of the fund moneys, and to all persons employed by any entity, including a regional occupational center or program, created or established by any two or more school districts pursuant to statute, including Chapter 14 (commencing with Section 7450) of Division 6, exercising any joint power pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, or as otherwise conferred by law upon such districts.

These provisions shall not apply to employees of a school district lying wholly within a city and county which provides in its charter for a merit system of employment for employees employed in positions not requiring certification qualifications except that, commencing July 1, 1992, the governing board of that district may adopt a resolution to make these provisions applicable to persons employed as paraprofessionals as defined in Section 44671.5, who have not attained permanent status under the merit system as of that date.

The positions authorized in Sections 35025, 35041, and 35045 may, by resolution of a governing board, be exempted from the provisions of Article 6 (commencing with Section 45240) of this chapter.

SEC. 2. Section 45318 of the Education Code is amended to read:

45318. In every school district coterminous with the boundaries of a city and county, except for those paraprofessionals excluded

from the charter provisions by a resolution adopted by the governing board of that district pursuant to Section 45100, employees not employed in positions requiring certification qualifications shall be employed, if the city and county has a charter providing for a merit system of employment, pursuant to the provisions of that charter providing for that system and shall, in all respects, be subject to, and have all rights granted by, those provisions; provided, however, that the governing board of the school district shall have the right to fix the duties of all of its noncertificated employees.

CHAPTER 288

An act to amend Sections 8001, 8003, 8005, and 8007 of the Education Code, relating to the California State Council on Vocational Education.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 8001 of the Education Code is amended to read:

8001. The members appointed by the Governor shall include all of the following:

(a) Seven individuals (who shall constitute a majority of the voting members of the council) who shall be representatives from business, industry, trade organizations, and agriculture, including one member representing small business concerns, one member who shall be a private sector representative of the State Job Training Coordinating Council, and two members representing labor organizations.

In selecting private sector individuals under this subdivision, the Governor shall give due consideration to the appointment of individuals who serve on a private industry council or other appropriate state agencies.

(b) Six individuals who shall be representatives of secondary and postsecondary vocational institutions appointed on an equitable basis among these institutions, including one member representing career guidance and counseling organizations within the state, one member representing the special education profession, and four members possessing special knowledge and qualifications as to the special educational and career development needs of special populations such as women, disadvantaged individuals, handicapped individuals, individuals with limited English proficiency, and minorities. Individuals appointed pursuant to this subdivision may include members of vocational student organizations and school board members.

(c) Members of the council may not represent more than one of the above-specified categories, and there shall be an appropriate representation of both sexes and racial and ethnic minorities. No member or employee of the State Board of Education shall be appointed to the council.

SEC. 2. Section 8003 of the Education Code is amended to read:

8003. The council shall have the following duties and responsibilities:

(a) Meet with the State Board of Education and the Board of Governors of the California Community Colleges, or their representatives, to advise them on the development of state plans for vocational education.

(b) Make recommendations to the State Board of Education and the Board of Governors of the California Community Colleges, and report to the Governor, the Legislature, the business community, and the general public, regarding all of the following:

(1) State plan.

(2) Policies the state should pursue to strengthen vocational education, with special emphasis on programs for handicapped individuals.

(3) Programs and methods through which the private sector could undertake to assist in the modernization of vocational education programs.

(c) Analyze and report to the Governor and the Legislature on the distribution of spending for vocational education in the state and on the availability of vocational education activities and services within the state.

(d) Consult with the State Board of Education and the Board of Governors of the California Community Colleges on evaluation criteria for vocational education programs in the state.

(e) Make recommendations to the State Board of Education and the Board of Governors of the California Community Colleges concerning the delivery of vocational education programs in the state that emphasize the involvement of business and labor organizations.

(f) Assess and report to the Governor and Legislature on the distribution of federal vocational education funding provided under Public Law 101-392, with an emphasis on the distribution of financial assistance among secondary and postsecondary vocational education programs.

(g) Recommend procedures to the State Board of Education and the Board of Governors of the California Community Colleges to ensure and enhance public participation in the provision of vocational education at the local level, with an emphasis on programs that involve the participation of local employers and labor organizations.

(h) Report to the State Board of Education, the Board of Governors of the California Community Colleges, and the Legislature on the extent to which individuals who are members of

special populations, including, but not limited to, those populations described in subdivision (b) of Section 8001, are provided equal access to quality vocational education programs.

(i) Analyze and review correctional vocational educational programs.

(j) Evaluate at least once every two years all of the following:

(1) The extent to which vocational education, employment, and training programs in the state represent a consistent, integrated, and coordinated approach to meeting the economic needs of the state.

(2) The vocational education program delivery system assisted under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-392) and the job training program delivery system assisted under the Job Training Partnership Act, and the adequacy and effectiveness in achieving the purposes of each of the two acts.

(k) Make recommendations to the State Board of Education and the Board of Governors of the California Community Colleges on the adequacy and effectiveness of coordination that takes place between vocational education and the Job Training Partnership Act.

(*l*) Comment on the adequacy or inadequacy of state action in implementing the state plan.

(m) Make recommendations to the State Board of Education and the Board of Governors of the California Community Colleges on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the state and local levels.

(n) Advise the Governor, the Legislature, the State Board of Education, the Board of Governors of the California Community Colleges, the State Job Training Coordinating Council, the United States Secretary of Education, and the United States Secretary of Labor regarding the evaluations, findings, and recommendations pursuant to this section.

SEC. 3. Section 8005 of the Education Code is amended to read:

8005. The council may obtain the services of any professional, technical, and clerical personnel necessary to enable it to carry out its functions under this article, and to contract for any services necessary for it to carry out its evaluation functions. The council may submit a statement to the United States Secretary of Education, the Governor, the State Board of Education, and the Board of Governors of the California Community Colleges that reviews and comments upon the state plan. If the statement is sent to the United States Secretary of Education, a copy of the state plan shall accompany the statement.

SEC. 4. Section 8007 of the Education Code is amended to read:

8007. The State Department of Education and the Board of Governors of the California Community Colleges shall submit the following reports each year to the Legislature:

(a) An annual descriptive report containing information on vocational education and technical training programs, including

regional occupational centers and programs. The report shall be coordinated with federal evaluation requirements pursuant to Public Law 101-392 and shall contain all of the following:

(1) Enrollment defined in terms of secondary students, postsecondary students, and adults.

(2) The number of graduates of programs and dropout rates.

(3) The number of students trained for specific entry level occupations.

(4) Fiscal information, including income by source and expenditure by category.

(5) Other factors as determined in Budget Act language pursuant to Section 33404.

(b) An annual individual program evaluation derived from a representative sample of participating districts and schools containing information on program effectiveness as measured by:

(1) The extent to which persons who complete the program:

(A) Find employment in occupations related to their training.

(B) Are considered by their employers to be well trained and prepared for employment.

(2) Other factors as determined in Budget Act language pursuant to Section 33404.

(c) A copy of the annual state plan for vocational education.

CHAPTER 289

An act to add Section 96 to the Streets and Highways Code, relating to highways.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 96 is added to the Streets and Highways Code, to read:

96. If any directional or traffic control sign installed or maintained by the department within the right-of-way of a state highway is defaced with graffiti in a manner which interferes with the ability of motorists to comprehend the information which the sign was intended to convey, thereby posing a danger to the public, the department shall, as soon as reasonably possible after learning of the graffiti, either remove the graffiti and treat the sign with an anti-graffiti substance or material, or replace the sign, whichever is more practical and economical.

CHAPTER 290

An act to amend Section 15394 of the Government Code, relating to world trade.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 15394 of the Government Code is amended to read:

15394. (a) There is hereby created the California Export Finance Board in the California Export Finance Office. The board shall consist of nine members as follows:

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

(2) The Executive Director of the Office of Small Business Development or his or her designee.

(3) One appointment by the Governor. The appointee shall be knowledgeable about, and experienced in, the exporting and export finance needs of California agriculture.

(4) Two appointments from export firms, one each by the California State World Trade Commission and the Speaker of the Assembly.

(5) Two appointments from financial institutions, one each by the California State World Trade Commission and the President pro Tempore of the Senate.

(6) Two appointments by the California State World Trade Commission. The appointees shall be accomplished credit evaluation representatives experienced in analyzing financial statements (such as loan applications) and in evaluating the credit worthiness of the types of loans, loan guarantees, and firms that are likely to come before the board.

Export representatives appointed under paragraph (4) shall be experienced in exporting, knowledgeable about the needs and problems of small and entrepreneurial exporters, and actively employed with an exporting firm, export trading company, or export management company.

Financial institution representatives appointed under paragraph (5) shall be experienced in export financing, knowledgeable about the export financing needs and problems of small and entrepreneurial exporters, and actively employed with a financial institution.

(b) The appointed members to the board referred to in subdivision (a) shall be appointed within 30 days of the effective date of this chapter.

(c) Upon appointment of at least three members under subdivision (a), the board may commence formal action pursuant to this chapter, but in no case shall this be later than 60 days after the

effective date of this chapter.

(d) The Chairperson of the California State World Trade Commission shall call the initial meeting of the board, serve as interim chair of the board until a chair has been elected, and provide other assistance related to the startup of the program as is necessary and reasonable.

(e) The initial appointments of the commission and the Governor under subdivision (a) shall be for three-year terms. The remaining appointments under subdivision (a) and all subsequent appointments, including appointments made pursuant to paragraph (6) of subdivision (a), shall be for two-year terms. Appointees shall serve at the pleasure of the appointing authority and vacancies shall be filled by the appointing authority.

(f) Board members who are not employees of the state shall receive one hundred dollars ($100) for each day they attend board meetings, per diem equal to that received by state employees, or reimbursement for actual and necessary expenses in attending board meetings and conducting board business as determined by the board.

CHAPTER 291

An act to amend Section 999 of the Military and Veterans Code, relating to veterans.

[Approved by Governor July 29, 1991. Filed with Secretary of State July 30, 1991.]

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

SECTION 1. Section 999 of the Military and Veterans Code is amended to read:

999. As used in this article, the following definitions apply:

(a) "Administering agency" means the Treasurer in the case of contracts for professional bond services, and the Office of Small and Minority Business in the case of contracts governed by Section 999.2.

(b) "Awarding department" means any agency, department, constitutional officer, governmental entity, or other officer or entity of the state empowered by law to issue bonds or enter into contracts on behalf of the State of California.

(c) "Bonds" means bonds, notes, warrants, certificates of participation, and other evidences of indebtedness issued by or on behalf of the State of California.

(d) "Contract" includes any contract, agreement, or joint agreement to provide professional bond services to the State of California or an awarding department. "Contract" also includes any agreement or joint development agreement to provide labor, services, material, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for

and on behalf of the State of California.

(e) "Contractor" means any person or persons, firm, partnership, corporation, or combination thereof who submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California. "Contractor" includes any provider of professional bond services who enters into a contract with an awarding department.

(f) "Disabled veteran" means a veteran of the military, naval, or air service of the United States with a service-connected disability who is a resident of the State of California.

(g) "Disabled veteran business enterprise" means a business concern certified by the administering agency as meeting all of the following requirements:

(1) It is a sole proprietorship owned by a disabled veteran; a firm or partnership, 100 percent of the voting stock or partnership interests of which are owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation, but only if 100 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture's management and control and earnings are held by one or more disabled veterans.

(2) The management and control of the daily business operations are by one or more disabled veterans. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.

(3) It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

(h) "Foreign corporation," "foreign firm," and "foreign-based business" means a business entity that is incorporated or has its principal headquarters located outside the United States of America.

(i) "Goal" means a numerically expressed objective that awarding departments are required to make efforts to achieve.

(j) "Management and control" means effective and demonstrable management of the business entity.

(k) "Professional bond services" include services as financial advisers, bond counsel, underwriters in negotiated transactions, underwriter's counsel, financial printers, feasibility consultants, and other professional services related to the issuance and sale of bonds.

CHAPTER 292

An act to add Section 25355.7 to the Health and Safety Code, and to add Section 13307 to the Water Code, relating to hazardous substances.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 25355.7 is added to the Health and Safety Code, to read:

25355.7. (a) On or before July 1, 1992, the department shall establish policies and procedures consistent with this chapter that its representatives shall follow in overseeing and supervising the activities of responsible parties who are carrying out the investigation of, and taking removal or remedial actions at, hazardous substance release sites. The policies and procedures shall include, but are not limited to, all of the following:

(a) The procedures the department will follow in making decisions as to when a potentially responsible party may be required to undertake an investigation to determine if a hazardous substance release has occurred.

(b) Policies for carrying out a phased, step-by-step investigation to determine the nature and extent of possible soil and groundwater contamination at a site.

(c) Procedures for identifying and utilizing the most cost-effective methods for detecting contamination and carrying out removal or remedial actions.

(d) Policies for determining reasonable schedules for investigation and removal or remedial action at a site. The policies shall recognize the dangers to public health and the environment posed by a release and the need to mitigate those dangers while at the same time taking into account, to the extent possible, the resources, both financial and technical, available to a responsible party.

SEC. 2. Section 13307 is added to the Water Code, to read:

13307. On or before July 1, 1992, the state board shall establish policies and procedures consistent with this division that its representatives and the representatives of regional boards shall follow in overseeing and supervising the activities of persons who are carrying out the investigation of, and cleaning up or abating the effects of, a discharge of a hazardous substance which creates, or threatens to create, a condition of contamination, pollution, or nuisance. The policies and procedures shall include, but are not limited to, all of the following:

(a) The procedures the state board and the regional boards will follow in making decisions as to when a person may be required to

undertake an investigation to determine if an unauthorized hazardous substance discharge has occurred.

(b) Policies for carrying out a phased, step-by-step investigation to determine the nature and extent of possible soil and groundwater contamination or pollution at a site.

(c) Procedures for identifying and utilizing the most cost-effective methods for detecting contamination or pollution and cleaning up or abating the effects of contamination or pollution.

(d) Policies for determining reasonable schedules for investigation and cleanup, abatement, or other remedial action at a site. The policies shall recognize the dangers to public health and the waters of the state posed by an unauthorized discharge and the need to mitigate those dangers while at the same time taking into account, to the extent possible, the resources, both financial and technical, available to the person responsible for the discharge.

CHAPTER 293

An act to add Section 289.5 to the Penal Code, relating to crimes.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 289.5 is added to the Penal Code, to read:

289.5. Whenever a person causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate any person's genital or anal openings by a penis or by any foreign object, substance, instrument, or device, as defined in subdivision (k) of Section 289, under any circumstances set forth in Section 289, and it cannot be established whether penetration was by a penis or by a foreign object, substance, instrument, or device, the person shall be punished by imprisonment in the state prison for three, six, or eight years. However, if the penetration occurs under the circumstances set forth in subdivision (c), (h) or (i) of Section 289, the punishment set forth in those subdivisions shall apply.

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 294

An act to amend Sections 11056, 11377, 11378, and 11379 of, and to add Section 11379.2 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 11056 of the Health and Safety Code is amended to read:

11056. (a) The controlled substances listed in this section are included in Schedule III.

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

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine.

(3) Chlorphentermine.

(4) Clortermine.

(5) Mazindol.

(6) Phendimetrazine.

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

(1) Any compound, mixture, or preparation containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing any of the following:

(A) Amobarbital

(B) Secobarbital

(C) Pentobarbital

or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof.

(4) Chlorhexadol.

(5) Lysergic acid.

(6) Lysergic acid amide.

(7) Methyprylon.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts. Additionally, oral liquid preparations of dihydrocodeinone containing the above specified amounts may not contain as its nonnarcotic ingredients two or more antihistamines in combination with each other.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Anabolic steroids and chorionic gonadotropin. Any material, compound, mixture, or preparation containing chorionic

gonadotropin or an anabolic steroid, including, but not limited to, the following:

(1) Androisoxazole.
(2) Androstenediol.
(3) Bolandiol.
(4) Bolasterone.
(5) Boldenone.
(6) Chlormethandienone.
(7) Clostebol.
(8) Dihydromesterone.
(9) Ethylestrenol.
(10) Fluoxymesterone.
(11) Formyldienolone.
(12) 4-Hydroxy-19-nortestosterone.
(13) Mesterolone.
(14) Methandriol.
(15) Methandrostenolone.
(16) Methenolone.
(17) 17-Methyltestosterone.
(18) Methyltrienolone.
(19) Nandrolone.
(20) Norbolethone.
(21) Norethandrolone.
(22) Normethandrolone.
(23) Oxandrolone.
(24) Oxymestrone.
(25) Oxymetholone.
(26) Quinbolone.
(27) Stanolone.
(28) Stanozolol.
(29) Stenbolone.
(30) Testosterone.
(31) Trenbolone.
(32) Chorionic Gonadotropin, (HGC).

(g) Ketamine. Any material, compound, mixture, or preparation containing ketamine.

SEC. 2. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in subdivision (b) or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by

imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of such a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

(c) In addition to any fine assessed under subdivision (b), the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

SEC. 3. Section 11378 of the Health and Safety Code is amended to read:

11378. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f), except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), of Section 11055, shall be punished by imprisonment in the state prison.

SEC. 4. Section 11379 of the Health and Safety Code is amended to read:

11379. (a) Except as otherwise provided in subdivision (b) and in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years.

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports for sale any controlled substances specified in

subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment in the state prison for three, six, or nine years.

SEC. 5. Section 11379.2 is added to the Health and Safety Code, to read:

11379.2. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale or sells any controlled substance specified in subdivision (g) of Section 11056 shall be punished by imprisonment in the county jail for a period of not more than one year or in the state prison.

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 295

An act to amend Section 655.6 of the Business and Professions Code, relating to clinical laboratories.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 655.6 of the Business and Professions Code is amended to read:

655.6. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from any patient, client, customer, or third-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by that person or under his or her direct supervision.

(b) Clinical laboratories performing cytologic examinations of gynecologic slides shall directly bill either the patient or the responsible third-party payer for the cytology services rendered by those laboratories. Clinical laboratories shall not bill the physician or surgeon who requests the tests.

(c) For the purposes of this section, any person or entity who is responsible to pay for cytologic examination of gynecologic slides services provided to that patient shall be considered a responsible

third-party payer.

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

(1) Any person who, or clinical laboratory which, contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if services are to be provided to members of the plan on a prepaid basis.

(2) Any person who, or clinic which, provides cytologic examinations of gynecologic slides services without charge to the patient, or on a sliding scale payment basis where the patient's charge for services is determined by the patient's ability to pay.

(3) Health care programs operated by public entities, including, but not limited to, colleges and universities.

(4) Health care programs operated by private educational institutions to serve the health care needs of their students.

CHAPTER 296

An act to amend Section 1645 of the Health and Safety Code, relating to blood transfusions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 1645 of the Health and Safety Code is amended to read:

1645. (a) Whenever there is a reasonable possibility, as determined by a physician and surgeon, that a blood transfusion may be necessary as a result of a medical or surgical procedure, the physician and surgeon, by means of a standardized written summary as most recently developed or revised by the State Department of Health Services pursuant to subdivision (e), shall inform the patient of the positive and negative aspects of receiving autologous blood and directed and nondirected homologous blood from volunteers. For purposes of this section, the term "autologous blood" includes, but is not limited to, predonation, intraoperative autologous transfusion, plasmapheresis, and hemodilution.

(b) The physician and surgeon shall note on the patient's medical record that the standardized written summary described in subdivision (e) was given to the patient.

(c) Subdivisions (a) and (b) shall not apply when medical contraindications or a life-threatening emergency exists.

(d) When there is no life-threatening emergency and there are no medical contraindications, the physician and surgeon shall allow adequate time prior to the procedure for predonation to occur. Notwithstanding this chapter, if a patient waives allowing adequate

time prior to the procedure for predonation to occur, a physician and surgeon shall not incur any liability for his or her failure to allow adequate time prior to the procedure for predonation to occur.

(e) The State Department of Health Services shall develop and annually review, and if necessary revise, a standardized written summary which explains the advantages, disadvantages, risks, and descriptions of autologous blood, and directed and nondirected homologous blood from volunteer donors. These blood options shall include, but not be limited to, the blood options described in subdivision (a). The summary shall be written so as to be easily understood by a layperson.

(f) The Medical Board of California shall publish the standardized written summary prepared pursuant to subdivision (e) by the State Department of Health Services and shall distribute copies thereof, upon request, to physicians and surgeons. The Medical Board of California shall make the summary available for a fee not exceeding in the aggregate the actual costs to the State Department of Health Services and the Medical Board of California for developing, updating, publishing and distributing the summary. Physicians and surgeons shall purchase the written summary from the Medical Board of California for, or purchase or otherwise receive the written summary from any other entity for, distribution to their patients as specified in subdivision (a). Clinics, health facilities, and blood collection centers may purchase the summary if they desire.

(g) Any entity may reproduce the written summary prepared pursuant to subdivision (e) by the State Department of Health Services and distribute the written summary to physicians and surgeons.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that patients are informed of the positive and negative aspects of receiving autologous blood and directed and nondirected homologous blood from volunteers, it is necessary for this act to take effect immediately.

CHAPTER 297

An act to amend Section 2884 of, and to add Section 2884.6 to the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 2884 of the Public Utilities Code is amended to read:

2884. (a) The commission shall, pursuant to its existing authority, by rule or order, establish procedures governing telephone corporation billing practices and operations to require every telephone corporation, on and after July 1, 1986, or on and after another date or dates which the commission finds and determines to be appropriate and feasible with respect to the capability of particular telephone equipment, to offer residential subscribers the option of deleting access to a class of information-access telephone service, commonly referred to as "900 or 976 service," whereby recorded commercial, informational, or public service messages, interactive computer programs, and other services, are provided for a charge, in addition to the basic local exchange charge, to the person calling, and to notify new residential subscribers of the options available to delete information-access services through telephone service.

The commission shall specify a method or methods for telephone corporations to institute this deletion of access option for residential subscribers, taking into consideration the operational requirements of the various types of telephone equipment in use throughout the state. The commission shall impose no charge on residential telephone subscribers for this deletion of access option, and shall require telephone corporations to refund to subscribers any amounts paid prior to the effective date of the amendments to this section enacted in 1988 for deletion of access. The commission shall determine and implement a method by which telephone corporations shall be recompensed for the expenses of providing this deletion of access option.

(b) The commission shall require every telephone corporation which furnishes information-access telephone service to make available a separate, easily distinguishable telephone prefix number for information providers which provide messages which constitute harmful matter and for those who provide other than messages which constitute harmful matter, and to request every information provider to designate which prefix corresponds to the type of messages it proposes to provide. Any information provider which provides any live or recorded message constituting harmful matter

through any information-access telephone number other than one within the prefix assigned to information providers furnishing messages constituting harmful matter is in violation of Section 2111. The commission shall require the telephone corporation to offer residential subscribers the option of deleting access to the telephone prefix number by which messages constituting harmful matter are accessed, pursuant to subdivision (a), and shall determine and implement a method by which a telephone corporation shall be recompensed for the expenses of providing this deletion of access option to residential subscribers.

(c) As used in this section, "harmful matter" means harmful matter as defined in subdivision (a) of Section 313 of the Penal Code.

(d) 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 2884.6 is added to the Public Utilities Code, to read:

2884.6. The commission shall require telephone corporations and providers of information-access telephone services to institute a method of handling subscriber complaints concerning these services, which shall include provision for a waiver of certain or all of the charges for these services for a first occasion of their inadvertent or mistaken use.

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 continue to provide for segmentation of information-access telephone services, to eliminate charges to residential telephone subscribers for deletion of access to information services, and to continue to provide protection to residential subscribers from unwanted information services without interruption, it is necessary that this act take effect immediately.

CHAPTER 298

An act to amend Sections 34500 and 34506.3 of, and to add Section 34508.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 34500 of the Vehicle Code is amended to read:

34500. The department 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, school pupil activity buses, 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. 2. Section 34506.3 of the Vehicle Code is amended to read:

34506.3. Except as otherwise provided in this division, it is an infraction to fail to comply with any rule or regulation adopted by the department pursuant to this division.

SEC. 3. Section 34508.5 is added to the Vehicle Code, to read:

34508.5. (a) The department shall, pursuant to its investigation of schoolbus accidents in accordance with Section 12517.1, investigate accidents involving schoolbuses, school pupil activity

buses, and youth buses for evidence of overcrowding aboard the bus or obstructed aisles, or both, contributing to increased pupil injury or risk of injury. The department shall also inquire of other states containing large urban areas as to whether increased pupil injuries in schoolbus, school pupil activity bus, and youth bus accidents resulted from overcrowding or obstructed aisles existing at the time of the accident.

(b) The department shall prepare and submit to the Legislature, on or before July 1, 1993, a report on its findings and recommendations from its investigation pursuant to subdivision (a), including recommendations for improving the safe transportation of pupils together with any needed revisions to existing laws or regulations relating to seating aboard schoolbuses, school pupil activity buses, and youth buses and requiring aisles to be unobstructed while those buses are in motion.

CHAPTER 299

An act to add Section 49073.5 to the Education Code, relating to governing boards.

[Approved by Governor August 1, 1991 Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 49073.5 is added to the Education Code, to read:

49073.5. (a) It is the intent of the Legislature that a school district, in adopting a policy pursuant to Section 49073 governing the release of pupil directory information, not purposefully exclude any military services representative from access to that information.

(b) It is further the intent of the Legislature, in the interest of pupil confidentiality, that school districts minimize the release of pupil telephone numbers in the absence of express parental consent. The Legislature finds and declares that the nondisclosure of pupil telephone numbers will reduce the possibility of harassment of pupils and their families by organizations that receive pupil directory information.

CHAPTER 300

An act to amend Sections 8670.3, 8670.40, 8670.48, and 8670.56.6 of the Government Code, to amend Section 8750 of the Public Resources Code, and to add Part 24 (commencing with Section 46001) to Division 2 of the Revenue and Taxation Code, relating to oil spills, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. Section 8670.3 of the Government Code, as added by Section 1.5 of Chapter 10 of the Statutes of 1991, is amended to read:

8670.3. Unless the context requires otherwise, the following definitions shall govern the construction of this chapter:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4.

(b) "Barges" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(c) "Best achievable protection" means that the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (1) the protection provided by the measures, (2) the technological achievability of the measures, and (3) the cost of the measures.

It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the

effectiveness and engineering feasibility of the technology.

(e) "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

(f) "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this chapter, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

(g) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

(h) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(i) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(j) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(k) (1) "Owner" or "operator" means any of the following:

(A) In the case of a vessel, any person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a marine facility, any person who owns, has an ownership interest in, or operates the marine facility.

(C) Except as provided in subparagraph (D), in the case of any vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or facility immediately beforehand.

(D) An entity of the state or local government which acquired ownership or control of a vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge or oil into marine waters.

(2) "Owner" or "operator" does not include a person who, without participating in the management of a vessel or marine

facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility.

(3) "Operator" does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(*l*) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(m) "Pipeline" means any pipeline used at any time to transport oil.

(n) "Responsible party" or "party responsible" means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(o) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil into marine waters which is not authorized by any federal, state, or local government entity.

(p) "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(q) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(r) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(s) "Vessel" means a tanker or barge as defined in this section.

SEC. 2. Section 8670.40 of the Government Code, as added by Section 3.5 of Chapter 10 of the Statutes of 1991, is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The amount of the annual assessment shall not exceed four cents ($0.04) per barrel of crude oil or petroleum products.

(b) (1) The oil spill prevention and administration fee shall be imposed upon every person owning crude oil at the time that the crude oil is received at a marine terminal from within or outside the state, and upon every person owning petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so

received by means of a vessel operating in, through, or across the marine waters of the state. In addition, every operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state. The fees shall be remitted to the board by the terminal or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a marine terminal or transported by pipeline during the preceding month. No fee shall be imposed pursuant to this section with respect to any crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has been collected by a terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.

(2) Every owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

(2) To carry out studies which may lead to improved oil spill prevention and response.

(3) To finance environmental and economic studies relating to the effects of oil spills.

(4) To reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of this chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(5) To implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended.

(6) To reimburse the board for costs incurred to implement this chapter and to carry out the provisions of Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code.

(f) The moneys deposited in the fund shall not be used for responding to an oil spill.

SEC. 3. Section 8670.48 of the Government Code, as added by Section 4.5 of Chapter 10 of the Statutes of 1991, is amended to read:

8670.48. (a) (1) An oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of petroleum products shall

be imposed upon every person owning petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) Every owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) Every operator of a pipeline shall also pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of petroleum products transported into the state by means of a pipeline operating across, under, or through the marine waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) (1) Every operator of a refinery shall pay an oil spill response fee in the amount of twenty-five cents ($0.25) for each barrel of crude oil received at a refinery within the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

(2) The fee shall not be imposed by a refiner or person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold, or otherwise modified with the intent of circumventing the requirements of this section.

(3) For purposes of this chapter, "independent crude oil producer" means any person or entity producing crude oil within this state who performs no refining of crude oil into product, and who possesses or owns no retail gasoline marketing facilities.

(d) Every marine terminal operator shall pay an oil spill response fee in the amount of twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil that is transported from within this state by means of marine vessel to a destination outside this state.

(e) Every operator of a pipeline shall pay an oil spill response fee in the amount of twenty-five cents ($0.25), in accordance with subdivision (g), for each barrel of crude oil transported out of the state by pipeline.

(f) The fees required pursuant to this section shall be collected during any period that the fund contains less than the designated amount, as defined in subdivision (h), or during which the state has borrowed money pursuant to Article 7.5 (commencing with Section 8670.53.1).

(g) The fees imposed by subdivisions (d) and (e) shall be imposed

in any calendar year beginning the month following the month when the total cumulative year-to-date barrels of crude oil transported outside the state by all feepayers by means of vessel or pipeline exceeds 6 percent by volume of the total barrels of crude oil and petroleum products subject to oil spill response fees under subdivisions (a), (b), and (c) for the prior calendar year.

(h) For purposes of this chapter, "designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, according to an index which the administrator may reasonably choose, subject to the following:

(1) Fifty million dollars ($50,000,000) shall be retained in the fund as cash, adjusted for inflation.

(2) Fifty million dollars ($50,000,000) shall be immediately accessible in the fund in the form of financial security obtained by the Treasurer as authorized by subdivision (p).

(i) The administrator shall authorize refunds of any fees collected, for reporting periods after January 31, 1991, in excess of the amount specified in paragraph (1) of subdivision (h). The board, as directed by the administrator and in accordance with Section 46653 of the Revenue and Taxation Code, shall refund the excess amount of fees collected to each feepayer who paid the fee to the state, in proportion to the amount that each feepayer paid into the fund during the preceding 12 monthly reporting periods including the month in which the fund exceeded the specified amount, and only for those periods which commenced on or after January 31, 1991.

Any amount of fees collected in excess of the specified amount for periods prior to February 1, 1991, shall be refunded as follows:

(1) First, to feepayers who paid oil spill response fees under subdivision (d) or (e) of Section 8670.48 of the Government Code as added by Chapter 1248 of the Statutes of 1990.

(2) Second, to feepayers in proportion to the amount each feepayer paid into the fund for the period from September 24, 1990, to January 31, 1991, inclusive, less any amounts refunded pursuant to paragraph (1).

(j) The board shall collect the fee and adopt regulations implementing the fee collection program. All fees collected pursuant to this section shall be deposited in the Oil Spill Response Trust Fund.

(k) The fee described in this section shall be collected solely for any of the following purposes:

(1) To provide funds to cover promptly the costs of response, containment, and cleanup of oil spills into marine waters, including damage assessment costs, and wildlife rehabilitation as provided in Section 8670.61.5.

(2) To provide emergency loans and to cover response and cleanup costs and other damages suffered by the state or other persons or entities from oil spills into marine waters which cannot otherwise be compensated by responsible parties or the federal government.

(3) To pay claims for damages pursuant to Section 8670.51.

(4) To pay claims for damages, except for damages described in paragraph (7) of subdivision (g) of Section 8670.56.5, pursuant to Section 8670.51.1.

(5) To pay for the arrangement of fifty million dollars ($50,000,000) of financial security as authorized by subdivision (p).

(6) To pay indemnity and related costs and expenses as authorized by Section 8670.56.6.

(*l*) The interest that the state earns on the funds deposited into the Oil Spill Response Trust Fund shall be deposited in the fund and shall be used to maintain the fund at the designated amount. If the fund exceeds the designated amount, the interest not needed to bring the fund to the designated amount shall be deposited into the Oil Spill Prevention and Administration Fund.

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the moneys in the fund shall be used solely for the purposes specified in subdivision (k).

(n) For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(o) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner or person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer.

(p) The Treasurer shall purchase fifty million dollars ($50,000,000) of financial security which may be drawn upon immediately by the administrator upon making the determinations as required by Section 8670.49. The financial security shall be in a form as described in subdivision (a) of Section 8670.53.3.

SEC. 4. Section 8670.56.6 of the Government Code is amended to read:

8670.56.6. (a) (1) Except as provided in subdivisions (b) and (d), and subject to subdivision (c), no person, including, but not limited to, an oil spill cooperative, its agents, subcontractors, or employees, shall be liable under this chapter or the laws of the state to any person for costs, damages, or other claims or expenses as a result of actions taken or omitted in good faith in the course of rendering care, assistance, or advice in accordance with the National Contingency Plan, the state oil spill contingency plan, or at the direction of the administrator, onsite coordinator, or the Coast Guard in response to a spill or threatened spill of oil.

(2) The qualified immunity under this section shall not apply to any oil spill response action which is inconsistent with the directions of the Coast Guard, the director, or, in the absence of overriding directions of the Coast Guard or the director, is inconsistent with applicable contingency plans implemented under this division.

(3) Nothing in this section shall, in any manner or respect, affect

or impair any cause of action against or any liability of any person or persons responsible for the spill, for the discharged oil, or for the tanker, barge, terminal, pipeline, or facility from which the oil was discharged. The responsible person or persons shall remain liable for any and all damages arising from the discharge, including damages arising from improperly carried out response efforts, as otherwise provided by law.

(b) Nothing in this section shall, in any manner or respect, affect or impair any cause of action against or any liability of any party or parties responsible for the spill, or the responsible party's agents, employees, and subcontractors, excluding persons immunized under subdivision (a) for response services, for the discharged oil, or for the tanker, terminal, pipeline, or marine facility from which the oil was discharged.

(c) The responsible party or parties shall:

(1) Notwithstanding subdivision (b) or (h) of Section 8670.56.5, or any other provision of law, be strictly and jointly and severally liable for all damages arising pursuant to subdivision (g) of Section 8670.56.5 from the response efforts of its agents, employees, subcontractors, or an oil spill cooperative of which it is a member or with which it has a contract or other arrangement for cleanup of its oil spills, unless it would have a defense to the original spill.

(2) Remain strictly liable for any and all damages arising from the response efforts of a person other than a person specified in paragraph (1).

(d) Nothing in this section shall immunize a cooperative or any other person from liability for acts of gross negligence or willful misconduct in connection with the cleanup of a spill.

(e) This section shall not apply to any action for personal injury or wrongful death.

(f) As used in this section, a "cooperative" means an organization of private persons which is established for the primary purpose and activity of preventing or rendering care, assistance, or advice in response to a spill or threatened spills of oil.

(g) Except for the responsible party, membership in a cooperative shall not, in and of itself, be grounds for liability resulting from cleanup activities of the cooperative.

(h) For purposes of this section, there shall be a rebuttable presumption that an act or omission described in subdivision (a) was taken in good faith.

(i) In any situation in which immunity is granted pursuant to subdivision (a) and a responsible party is not liable, is not liable for noneconomic damages caused by another, or is partially or totally insolvent, the fund provided for in Article 7 (commencing with Section 8670.46) shall, in accordance with its terms, reimburse claims of any injured party for which a person who is granted immunity pursuant to this section would otherwise be liable.

(j) (1) The immunity granted by this section shall only apply to response efforts that are undertaken after the administrator certifies

that contracts with qualified and responsible persons are in place to ensure an adequate and expeditious response to any foreseeable oil spill that may occur in marine waters for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and cleanup the oil spill in an adequate and timely manner. In negotiating these contracts, the administrator shall, to the maximum extent practicable, procure the services of persons who are willing to respond to oil spills with no, or lesser, immunity than that conferred by this section, but, in no event, a greater immunity. The administrator shall make the certification required by this subdivision on an annual basis. Upon certification, the immunity conferred by this section shall apply to all response efforts undertaken during the calendar year to which the certification applies. In the absence of the certification required by this subdivision, the immunity conferred by this section shall not attach to any response efforts undertaken by any person in marine waters.

(2) In addition to the authority to negotiate contracts described in (1) above, the administrator shall also be authorized to negotiate and enter into indemnification agreements with qualified and financially responsible persons to respond to oil spills that may occur in marine waters for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and cleanup the oil spill in an adequate and timely manner.

(3) The administrator may indemnify response contractors for (A) all damages payable by means of settlement or judgment that arise from response efforts to which the immunity conferred by this section would otherwise apply, and (B) reasonably related legal costs and expenses incurred by the responder, provided that indemnification shall only apply to response efforts undertaken after the expiration of any immunity that may exist as the result of the contract negotiations authorized in this subdivision. In negotiating these contracts, the administrator shall, to the maximum extent practicable, procure the services of persons who are willing to respond to oil spills with no, or as little, right to indemnification as possible. All indemnification shall be paid by the administrator from the Oil Spill Response Trust Fund.

(k) (1) With regard to a person who is regularly engaged in the business of responding to oil spills, the immunity conferred by this section shall not apply to any response efforts by that person that occur later than 60 days after the first day the person's response efforts commence.

(2) Notwithstanding the limitation contained in paragraph (1), the administrator may, upon making all the following findings, extend the period of time, not to exceed 30 days, during which the immunity conferred by this section applies to response efforts:

(A) Due to inadequate or incomplete containment and stabilization, there exists a substantial probability that the size of the spill will significantly expand and (i) threaten previously uncontaminated marine or land resources, (ii) threaten already

contaminated marine or land resources with substantial additional contamination, or (iii) otherwise endanger the public safety or welfare.

(B) The remaining work is of such a difficult or perilous nature that extension of the immunity is clearly in the public interest.

(C) No other qualified and financially responsible contractor is prepared and willing to complete the response effort in the absence of the immunity, or a lesser immunity, as negotiated by contract.

(3) The administrator shall provide five days' notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator's decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).

(4) No person or their agents, subcontractors, or employees shall incur any liability under this chapter or any other provision of law solely as a result of that person's decision to terminate their response efforts because of the expiration of the immunity conferred by this section. A person's decision to terminate response efforts because of the expiration of the immunity conferred by this section shall not in any manner impair, curtail, limit, or otherwise affect the immunity conferred on the person with regard to the person's response efforts undertaken during the period of time the immunity applied to such response efforts.

(5) The immunity granted under this section shall attach, without the limitation contained in this subdivision, to the response efforts of persons who are not regularly engaged in the business of responding to oil spills. Persons who are not regularly engaged in the business of responding to oil spills includes, but is not limited to, (A) persons who are primarily dedicated to the preservation and rehabilitation of wildlife and (B) persons who derive their livelihood primarily from fishing.

(*l*) As used in this section, "response efforts" means rendering care, assistance, or advice in accordance with the National Contingency Plan, the state oil spill contingency plan, or at the direction of the administrator, onsite coordinator, or the Coast Guard in response to a spill or threatened spill of oil.

SEC. 5. Section 8750 of the Public Resources Code is amended to read:

8750. Unless the context requires otherwise, the following definitions govern the construction of this division:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4 of the Government Code.

(b) "Barges" means any vessel that carries oil in commercial

quantities as cargo but is not equipped with a means of self-propulsion.

(c) "Best achievable protection" means the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (1) the protection provided by the measures, (2) the technological achievability of the measures, and (3) the cost of the measures.

It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Commission" means the State Lands Commission.

(f) "Local government" means any chartered or general law city, chartered or general law county or any city and county.

(g) "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this division, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

(h) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

(i) "Marine waters" means those waters subject to tidal influence,

except for waters in the Sacramento-San Joaquin Rivers and Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(j) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(k) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(*l*) "Operator" when used in connection with vessels, marine terminals, pipelines, or facilities, means any person or entity which owns, has an ownership interest in, charters, leases, rents, operates, participates in the operation of or uses that vessel, terminal, pipeline, or facility. "Operator" does not include any entity which owns the land underlying the facility or the facility itself, where the entity is not involved in the operations of the facility.

(m) "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(n) "Pipeline" means any pipeline used at any time to transport oil.

(o) "Responsible party" or "party responsible" means either of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility or a person or entity accepting responsibility for the vessel or marine facility.

(p) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil not authorized by any federal, state, or local government entity.

(q) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(r) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(s) "Vessel" means a tanker or barge as defined in this section.

SEC. 6. Part 24 (commencing with Section 46001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 24. OIL SPILL RESPONSE, PREVENTION, AND ADMINISTRATION FEES

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

46001. This part shall be known and may be cited as the Oil Spill Response, Prevention, and Administration Fees Law.

46002. The collection and administration of the fees referred to in Sections 46051 and 46052 shall be governed by the definitions contained in Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code, unless expressly otherwise provided by the definitions contained in this part.

46003. Except where the context otherwise requires, the definitions contained in this chapter govern the construction of this part.

46004. The provisions of this part, insofar as they are substantially the same as existing provisions of law relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

46005. Any action or proceeding commenced before this part takes effect, or any right accrued, is not affected by this part, but all procedures taken shall conform to the provisions on this part as far as possible.

46006. "Administrator" means the chief deputy director of the Department of Fish and Game appointed by the Governor pursuant to Section 8670.4 of the Government Code.

46007. "Barges" means any relatively flat-bottomed, waterborne vessel which is propelled by being pulled or pushed by another vessel, and is constructed or adapted to carry crude oil or petroleum products in commercial quantities as cargo.

46008. "Barrel" means 42 gallons of crude oil or petroleum products.

46009. "Board" means the State Board of Equalization.

46010. "Crude oil" means petroleum in an unrefined or natural state, including condensate and natural gasoline.

46011. "Discharge" means any release of at least one barrel of oil into marine waters which is not authorized by any federal, state, or local government entity.

46012. "Designated amount" means an amount equal to one hundred million dollars ($100,000,000), adjusted for inflation after January 1, 1991, subject to the following:

(a) Fifty million dollars (50,000,000) shall be retained in the Oil Spill Response Trust Fund as cash, adjusted for inflation.

(b) Fifty million dollars ($50,000,000) shall be accessible in the Oil Spill Response Trust Fund in the form of financial security obtained by the Treasurer.

46013. "Feepayer" means any person who may be liable for the payment of a fee imposed by either Section 8670.40 or 8670.48 of the Government Code.

46014. "Independent crude oil producer" means any person or entity producing crude oil within this state who does not refine crude oil into product, and who does not own or operate any retail gasoline marketing facilities.

46015. "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

46016. "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting crude oil or petroleum products and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is, (1) subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or, (2) is placed on a farm, nursery, logging, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this part, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility."

46017. "Marine terminal" means any marine facility used for transferring crude oil or petroleum products to or from tankers or barges. For the purposes of this part, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

46018. "Marine waters" means those waters subject to tidal influence, including the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento. Other waterways upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet, are not "marine waters."

46019. (a) "Operator" means any of the following:

(1) Any person who owns, operates, charters by demise, or leases a vessel.

(2) Any person who owns or operates a marine facility.

(3) Any person who owns or operates a marine pipeline.

(4) Any person who owns or operates a refinery.

(b) "Operator" does not include a person who, without participating in the management of a vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or marine facility. Also, "operator" does not include any person who owns the land beneath a marine facility or the facility itself if the person is not involved in the operation of the facility.

46020. "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

46021. "Petroleum products" means any liquid hydrocarbon at

atmospheric temperature and pressure that is the product of the fractionation, distillation, or other refining or processing of crude oil and that is used as, useable as, or may be refined as, a fuel or fuel blendstock, including, but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and alcohol fuels containing petroleum products.

46022. "Pipeline" means any pipeline used at any time to transport crude oil or petroleum products.

46023. "Refinery" means a facility or location which refines crude oil, including condensate and natural gasoline, into petroleum products, lubricating oils, coke, or asphalt.

46024. "Responsible party" or "party responsible" means any of the following:

(a) The owner or transporter of crude oil or petroleum products or a person or entity accepting responsibility for the crude oil or petroleum products.

(b) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

46025. "Spill" means any release of at least one barrel of crude oil or petroleum products into marine waters which is not authorized by any federal, state, or local government entity.

46026. "State Interagency Oil Spill Committee" means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.

46027. "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.

46028. "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of crude oil or petroleum products in bulk or in commercial quantities as cargo.

46029. "Vessel" means a tanker or barge as defined in this chapter.

CHAPTER 2. OIL SPILL PREVENTION AND ADMINISTRATION FEE AND OIL SPILL RESPONSE FEE

Article 1. Imposition of Fee

46051. The fee imposed pursuant to Section 8670.40 of the Government Code shall be administered and collected by the board in accordance with this part.

46052. The fee imposed pursuant to Section 8670.48 of the Government Code shall be administered and collected by the board in accordance with this part.

46053. Any fees collected from an owner of crude oil or petroleum products pursuant to Section 46051 or 46052 which have

not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit fees.

46054. (a) Whenever the board estimates that amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, will reach the designated amount, and the moneys in that fund are not required for oil spill cleanups or to retire any debt assumed pursuant to Section 8670.53.15 of the Government Code, the board shall notify the feepayers that as of the first of the month following the notification, the fee will not be imposed.

(b) Whenever the board estimates that the Oil Spill Response Trust Fund will contain less than the designated amount or additional moneys are required to pay for costs for cleanup of oil spills or to retire any debt assumed pursuant to Section 8670.53.15 of the Government Code, the board shall notify the feepayers that as of the first of the month following the notification the fee will be imposed.

Article 2. Registration

46101. Every person who operates an oil refinery in this state, a marine terminal in marine waters, or operates a pipeline across, under, or through marine waters pursuant to Section 8670.2 of the Government Code shall register with the board.

CHAPTER 3. DETERMINATIONS

Article 1. Returns and Payments

46151. (a) The fees collected and administered under Sections 46051 and 46052 are due and payable to the board monthly on or before the 25th day of the calendar month following the monthly period for which the fee is due. Each feepayer, on or before the 25th day of the month following each monthly period, shall make out a return for the preceding monthly period, in the form as prescribed by the board, showing the information required to be reported by Sections 8670.40 and 8670.48 of the Government Code and any other information that the board determines to be necessary to carry out this part.

(b) The feepayer shall deliver the return, together with a remittance of the amount of fee due, if any, to the office of the board on or before the 25th day of the month following the monthly period for which the fee is due.

(c) In addition to the returns due pursuant to subdivision (a), each feepayer shall provide an annual information return, in the form as prescribed by the board, showing the information required to be reported by Section 8670.48 of the Government Code and any other information that the board determines to be necessary to carry out this part. The feepayer shall deliver the return containing the required information for the preceding calendar year to the office of

the board on or before February 1st of each year.

46152. The board, if it determines it necessary in order to facilitate the administration of this part, may require returns and payments specified under Section 46151 to be made for periods other than monthly.

46153. (a) The board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time if a request therefore is filed with the board within or prior to the period for which the extension may be granted.

(b) Any person to whom an extension is granted shall pay, in addition to the fee, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5 from the date on which the fee would have been due without the extension until the date of payment.

46154. (a) If the fee is not paid to the board within the time prescribed for the payment of the fee, a penalty of 10 percent of the amount of the fee shall be added thereto on account of the delinquency.

(b) If the information return is not filed within the time prescribed, a penalty of five hundred dollars ($500) shall be assessed.

46155. All fees not paid on the date when due and payable shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from and after that date until paid.

46156. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 46154, 46251, and 46356.

(b) Any person seeking to be relieved of the penalty shall file with the board a statement, under penalty of perjury, setting forth the facts upon which he or she bases his or her claim for relief.

46157. (a) If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 46153, 46155, and 46253.

(b) Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

46158. (a) If the board finds that a person's failure to make a timely report or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the fees imposed or administered under this part and any penalty or interest added thereto.

(b) For purposes of this section, a person's failure to make a timely report or payment shall be considered to be due to reasonable

reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:

(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to the fee under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to the fee, or stating the conditions under which the activity or transaction is subject to the fee.

(3) The liability for fees applied to a particular activity or transaction which occurred before either of the following:

(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of the rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, which renders the board's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the board all of the following:

(1) A copy of the person's written request to the board and a copy of the board's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the board may require.

(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

Article 2. Deficiency Determinations

46201. (a) If the board is dissatisfied with the return filed or the amount of fee paid to the state by any feepayer, the board may compute and determine the amount to be paid, based upon any information available to it. One or more deficiency determinations may be made of the amount of fee due for one or for more than one period. When a business is discontinued, a determination may be made at any time thereafter, within the period specified in Section 46204, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part. In making a determination, the board may offset overpayments for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments.

(b) The amount of fee so determined shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount of the fee, or any portion thereof, became due and payable until the date of payment.

(c) If any part of the deficiency for which a determination of an

additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or regulations adopted pursuant thereto, a penalty of 10 percent of the amount of the determination shall be added, plus interest as provided in subdivision (b).

(d) If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or regulations adopted pursuant thereto, a penalty of 25 percent of the amount of the determination shall be added, plus interest as provided in subdivision (b).

46202. The board shall give to the feepayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the feepayer at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in a United States Post Office, or a mailbox, subpost office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

46203. Except in the case of fraud, intent to evade this part or regulations adopted pursuant thereto, or failure to make a return, every notice of deficiency determination shall be given within three years after the 25th day of the month following the period for which the return was due or within three years after the return was filed, whichever period expires later. In the case of failure to make a return, the notice of determination shall be mailed within eight years after the date the return was due.

46204. In the case of a deficiency arising under this part during the lifetime of a decedent, a notice of deficiency determination shall be mailed within four months after written request therefor, in the form required by the board, by the fiduciary of the estate or trust or by any other person liable for the fee or any portion thereof.

46205. If before the expiration of the time prescribed in Section 46203 for the mailing of a notice of deficiency determination the feepayer has consented in writing to the mailing of the notice after that time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Article 3. Determinations If No Return Made

46251. If any feepayer fails to make a return, the board shall make an estimate of the amount of fee to be paid. The estimate shall be

made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come into its possession. Upon the basis of this estimate, the board shall compute and determine the amount of fee or other amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or more than one period. When a business is discontinued, a determination may be made at any time thereafter, within the periods specified in Section 46203, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

46252. In making a determination, the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

46253. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from date the amount of the fee, or any portion thereof, became due and payable until the date of payment.

46254. If the failure of any person to file a return is due to fraud or an intent to evade this part or regulations adopted pursuant thereto, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10 percent penalty provided in Section 46251.

46255. Promptly after making its determination, the board shall give to the person written notice of the estimate, determination, and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 4. Jeopardy Determinations

46301. If the board believes that the collection of any amount of fee will be jeopardized by delay, it shall thereupon make a determination of the amount of fee due, noting that fact upon the determination, and the amount of fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest provided in Sections 46154 and 46155 shall attach to the amount of fee specified therein.

46302. The feepayer against whom a jeopardy determination is made may file a petition for the redetermination thereof, pursuant to Article 5 (commencing with Section 46351), with the board within 10 days after the service upon the feepayer of notice of the determination, but he or she shall, within the 10-day period, deposit with the board such security as it determines to be necessary to

ensure compliance with this part. The security may be sold by the board at public sale if it becomes necessary in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the same manner as prescribed for service of notice by Section 46202. Upon any such sale, the surplus, if any, above the amount due under this part shall be returned to the person who deposited the security.

46303. (a) In accordance with such rules and regulations as the board may prescribe, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes:

(1) To establish that the determination is excessive.

(2) To establish that the sale of property that may be seized after issuance of the jeopardy determination, or any part thereof, shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person.

(3) To request the release of all or a part of the property to the person.

(4) To request a stay of collection activities.

(b) The application shall be filed within 30 days after service of the notice of jeopardy determination and shall be in writing and state the specific factual and legal grounds upon which it is founded. The person shall not be required to post any security in order to file the application and to obtain the hearing. However, if the person does not deposit, within the 10-day period prescribed in Section 46302, such security as the board may determine to be necessary to ensure compliance with this part, the filing of the application shall not operate as a stay of collection activities, except the sale of property seized after issuance of the jeopardy determination. Upon a showing of good cause for failure to file a timely application for administrative hearing, the board may allow a filing of the application and grant the person an administrative hearing. The filing of an application pursuant to this section shall not affect the provisions of Section 46301 relating to the finality date of the determination or to penalty or interest.

Article 5. Redeterminations

46351. Any person from whom an amount is determined to be due under Article 2 (commencing with Section 46201) or Article 3 (commencing with Section 46251), or any person directly interested, may petition for a redetermination thereof within 30 days after service upon him or her of notice of the determination. If a petition for redetermination is not filed within the 30-day period, the amount determined to be due becomes final at the expiration thereof.

46352. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon

the petition for redetermination.

46353. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the amount determined to be due, and, if the person has so requested in his or her petition, the board shall grant him or her an oral hearing and shall give him or her 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

46354. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by subdivision (d) of Section 46201 or Section 46254 applies to the amount of the determination as originally made or as increased, the claim for increase shall be asserted within eight years after the date the amount of fee for the period for which the increase is asserted was due.

46355. The order or decision of the board upon a petition for redetermination shall become final 30 days after service upon the petitioner of notice thereof.

46356. All amounts determined to be due by the board under Article 2 (commencing with Section 46201) or Article 3 (commencing with Section 46251) are due and payable at the time they become final, and, if not paid when due and payable, a penalty of 10 percent of the amount determined to be due shall be added to the amount due and payable.

46357. Any notice required by this article shall be served personally or by mail in the same manner as prescribed for service of notice by Section 46202.

CHAPTER 4. COLLECTION OF FEE

Article 1. Security for Fee

46401. (a) The board, whenever it determines it to be necessary to ensure compliance with this part, may require any person subject to this part to place with it such security as the board may determine to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail.

(b) If service is made by mail, service shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of

service by mail. Security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

46402. If any feepayer is delinquent in the payment of any obligations imposed by this part, or in the event a determination has been made against the feepayer which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof, personally or by first-class mail, to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the feepayer, or owing any debts to the feepayer. In the case of any state officer, department, or agency, the notice shall be given to the officer, department, or agency prior to the time it presents the claim of the delinquent taxpayer to the Controller.

46403. After receiving the notice, the person so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires first.

46404. All persons so notified shall immediately, after receipt of the notice, advise the board of all credits, other personal property, or debts in their possession, under their control, or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, to be effective, shall state the amount, interest, and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried at which the credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of the amount, interest, and penalty due from the person.

46405. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given, if solely by reason of that transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

46406. (a) The board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a feepayer or other person liable for any amount under this part to withhold from those credits or other personal property the amount of any fee, interest, or penalties due from that feepayer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at such times as it may designate.

(b) In the case of a financial institution, to be effective, the notice shall state the amount due from the feepayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

Article 2. Suit for Fee

46411. The board may bring any legal actions as are necessary to collect any deficiency in the fee required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

46412. In any suit brought to enforce the rights of the state with respect to fees, a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the fee, of the delinquency of the amount of fee, interest, and penalty set forth therein, and of compliance by the board with all provisions of this part in relation to the computation and levy of the fee. In the action, a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure.

Article 3. Judgment for Fee

46421. (a) If any person fails to pay any amount imposed pursuant to this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable lien. The lien shall be subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the amount would have been due and payable.

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board.

(3) For amounts determined under Section 46301 pertaining to jeopardy assessments, the date the notice of the board's finding is mailed or issued.

(4) For all other amounts, the date the assessment is final.

46422. (a) If the board determines that the amount of fee, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the fee, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest accrued thereon, is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Article 4. Warrant for Collection

46431. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or the last recording or filing of a notice of lien under Section 7171 of the Government Code, the board, or its authorized representative, may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of, and sale pursuant to, a writ of execution.

46432. The board may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, and expenses for their services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

46433. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him or her by virtue of the warrant or in any other manner provided in this part for the collection of the fee.

Article 5. Seizure and Sale

46441. Whenever any feepayer is delinquent in the payment of the fee, the board or its authorized representative may seize any property, real or personal, of the feepayer, and sell at public auction the property seized, or a sufficient portion thereof, to pay the fee due, together with any penalties imposed for the delinquency and all costs that have been incurred on account of the seizure and sale.

46442. (a) Notice of the sale, and the time and place thereof,

shall be given to the delinquent feepayer and to all persons who have an interest of record in the property at least 20 days before the date set for the sale in the following manner: The notice shall be personally served or enclosed in an envelope addressed to the feepayer or other person at his or her last known residence or place of business in this state as it appears upon the records of the board, if any, and depositing it in the United States registered mail, postage prepaid. The notice shall be published pursuant to Section 6063 of the Government Code in a newspaper of general circulation published in the city in which the property or a part thereof is situated if any part hereof is situated in a city or, if not, in a newspaper of general circulation published in the county in which the property or a part thereof is located. Notice shall also be posted in both of the following manners:

(1) One public place in the city in which the interest in property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest in the property is be sold.

(2) One conspicuous place on the property.

(b) The notice shall contain a description of the property to be sold, a statement of the amount due, including fees, interest, penalties, and costs, the name of the feepayer, and the further statement that unless the amount due is paid on or before the time fixed in the notice of the sale, the property, or so much thereof as may be necessary, will be sold in accordance with law and the notice.

46443. At the sale, the property shall be sold by the board, or by its authorized agent, in accordance with law and the notice, and the board shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser subject to a right of redemption as prescribed in the Code of Civil Procedure upon sales of real property on execution. The unsold portion of any property seized may be left at the place of sale at the risk of the feepayer.

46444. If, upon the sale, the moneys received exceed the amount of all fees, penalties, and costs due the state from the feepayer, the board shall return the excess to him or her and obtain his or her receipt. If any person having an interest in or lien upon the property files with the board prior to the sale notice of his or her interest, the board shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the feepayer is not available, the board shall deposit the excess moneys with the Treasurer, as trustee for the owner, subject to the order of the feepayer, his or her heirs, successors, or assigns.

Article 6. Successor Withholding and Liability

46451. If any person liable for any amount under this part sells out his or her business or stock of goods or quits the business, his or her

successor or assigns shall withhold from the purchase price an amount sufficient to cover that amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

46452. (a) If the purchaser of a business or stock of goods fails to withhold from the purchase price as required, he or she shall become personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price valued in money.

(b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice to the purchaser at his or her address as it appears on the records of the board of the amount that is required to be paid as a condition of issuing the certificate.

(2) For purposes of paragraph (1), the latest of the following dates shall apply:

(A) The date the board receives a written request from the purchaser for a certificate.

(B) The date of the sale of the business or stock of goods.

(C) The date the former owner's records are made available for audit.

(c) Failure of the board to mail the notice referred to in subdivision (b) shall release the purchaser from any further obligation to withhold from the purchase price under this article. The last date upon which the obligation of the successor may be enforced shall be not later than three years after the date the board is notified of the purchase of the business or stock of goods.

46453. The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of the certificate, or after the payment of the amounts is secured to the satisfaction of the board.

46454. The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of a deficiency determination, not later than three years after the date the board is notified of the purchase of the business or stock of goods. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 46351) of Chapter 3. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. This chapter, with respect to the collection of any amount required to be paid under this part, shall apply when the notice becomes final.

Article 7. Miscellaneous

46461. The remedies of the state provided for in this chapter are cumulative, and no action taken by the board or the Attorney General constitutes an election by the state or any of its officers to

pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

46462. (a) The amounts required to be paid by any person under this part, together with interest and penalties, shall be satisfied first in any of the following cases:

(1) Whenever the person is insolvent.

(2) Whenever the person makes a voluntary assignment of his or her assets.

(3) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(4) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

(b) This section does not give the state a preference over a lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

(c) The preference given to the state by this section is subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

CHAPTER 5. OVERPAYMENTS AND REFUNDS

Article 1. Claim for Refund

46501. (a) If the board determines that any amount of fee, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

(b) However, in the case of a determination by the board that an amount not to exceed fifty thousand dollars ($50,000) was not required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

46502. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the due date of the payment for the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 46201), Article 3 (commencing with Section 46251) or

Article 4 (commencing with Section 46301) of Chapter 3, within six months after the determinations become final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given pursuant to Section 46205.

(b) A refund may be approved by the board for any period for which a waiver is given pursuant to Section 46205 if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) If the board has made a determination under Article 2 (commencing with Section 46201), Article 3 (commencing with Section 46251), or Article 4 (commencing with Section 46301) of Chapter 3, and if a person's claim for refund was filed timely within the applicable six-month period specified by subdivision (a) or (b), that claim for refund shall be deemed to also apply to that person's later payments in full or partial satisfaction of that determination.

46503. Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

46504. Failure to file a claim within the time prescribed in this article constitutes a waiver of all demands against the state on account of the overpayment.

46505. Within 30 days after disallowing any claim, in whole or in part, the board shall serve written notice of its action on the claimant, the service to be made as provided by Section 46202.

46506. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the due date of the return for the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited. The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

46507. If the board determines that any overpayment has been made intentionally or by reasons of carelessness, it shall not allow any interest thereon.

Article 2. Suit for Refund

46521. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any

court against this state or against any office of the state to prevent or enjoin the collection of any fee sought to be collected.

46522. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been duly filed.

46523. Within 90 days after the mailing of the notice of the board's action upon a claim for refund or credit, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

46524. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

46525. Failure to bring suit or action within the time specified in this article constitutes a waiver of all demands against the state on account of any alleged overpayments.

46526. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any fees due from the plaintiff, and the balance shall be refunded to the plaintiff.

46527. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

46528. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any fee paid when the action is brought by or in the name of an assignee of the feepayer paying the fee or by any person other than the person who has paid the fee.

As used in this section, "assignee" does not include a person who has acquired the business of the feepayer which gave rise to the fees and who is thereby a successor in interest to the feepayer.

Article 3. Recovery of Erroneous Refunds

46541. The Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California, and the action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General, orders a change of place of trial. The Attorney General shall

prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Cancellations

46551. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined, either by the person filing the return or by the board, the board shall certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined, either by the person filing a return or by the board, the board, without certifying this fact to the State Board of Control, shall authorize the cancellation of the amount upon the records of the board.

CHAPTER 6. ADMINISTRATION

46601. The board shall enforce this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part.

46602. Every feepayer shall keep such records, receipts, invoices, and other pertinent papers in such form as the board may require.

46603. The board may make such examinations of the books and records of any feepayer as it may determine to be necessary in carrying out this part.

46604. The board may employ accountants, auditors, investigators, and other expert and clerical assistance necessary to enforce its powers and perform its duties under this part.

46605. A certificate by the board or an employee of the board stating that a notice required by this part was given by mailing or personal service shall be prima facie evidence in any administrative or judicial proceeding of the fact and regularity of the mailing or personal service in accordance with any requirement of this part for the giving of a notice. Unless otherwise specifically required, any notice provided by this part to be mailed or served may be given either by mailing or by personal service in the manner provided for giving notice of a deficiency determination.

CHAPTER 7. DISPOSITION OF PROCEEDS

46651. All fees, interest, and penalties imposed and all amounts of fee required to be paid to the state pursuant to Sections 46051 and 46052 shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Oil Spill Prevention and

Administration Fund or the Oil Spill Response Trust Fund.

46652. The money in the Oil Spill Prevention and Administration Fund and the Oil Spill Response Trust Fund shall, upon order of the Controller, be drawn therefrom for refunds under this part.

46653. Whenever the total amount in the Oil Spill Response Trust Fund, collected pursuant to Section 46052, exceeds the amount specified in subdivision (a) of Section 46012 and there are no outstanding liabilities for oil spill cleanups or requirements for debt retirement incurred pursuant to Section 8670.53.15 of the Government Code, the administrator shall direct the board to provide refunds of the excess moneys. The board shall refund the excess moneys in that fund to each person who paid the fee to the state in proportion to the amount that person paid into the fund during the preceding 12 months prior to the fund exceeding the amount specified in subdivision (a) of Section 46012. If the amount of money in the fund exceeds the amount specified in subdivision (a) of Section 46012 by 2 percent or less, refunds need not be ordered by the administrator.

CHAPTER 8. VIOLATIONS

46701. Any person who refuses to furnish any return required to be made, or who refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine in an amount not to exceed five hundred dollars ($500) for each offense in the discretion of the court, together with costs of investigation and prosecution.

46702. Any person who knowingly or willfully files a false return with the board, and any person who refuses to permit the board or any of its representatives to make any inspection or examination for which provision is made in this part, or who fails to keep records as prescribed by the board, or who fails to preserve those records for the inspection of the board for such time as the board determines to be necessary, or who alters, cancels, or obliterates entries in the records for the purpose of falsifying the records is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than one month nor more than six months, or by both that fine and imprisonment in the discretion of the court, together with costs of investigation and prosecution.

46703. Any person who willfully evades or attempts in any manner to evade or defeat the payment of the fee imposed by this part is guilty of a felony.

46704. Every person convicted for a violation of this part for which another penalty or punishment is not specifically provided for in this part is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both that fine

and imprisonment in the discretion of the court, together with costs of investigation and prosecution.

46705. Every person convicted of a felony for a violation of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment in state prison for not less than one year nor more than five years, or both that fine and imprisonment in the discretion of the court, together with cost of investigation and prosecution.

46706. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense.

CHAPTER 9. DISCLOSURE OF INFORMATION

46751. (a) The board shall provide any and all information obtained under this part to the Department of Fish and Game.

(b) The Department of Fish and Game and the board may utilize any information obtained pursuant to this part to develop data on oil spill prevention, abatement, and removal within the state. Notwithstanding any other provision of this section, the Department of Fish and Game may make oil spill prevention, abatement, and removal public.

(c) It shall be unlawful for the board, or any person having an administrative duty under Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code or Division 7.8 (commencing with Section 8750) of the Public Resources Code to make known, in any manner whatever, the business affairs, operations, or any other information pertaining to a feepayer which was submitted to the board in a report or return required by this part, or to permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by subdivision (a) and this subdivision. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(d) Notwithstanding subdivision (c), the successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information regarding the determination of any unpaid fee or the amount of fees, interest, or penalties required to be collected or assessed.

(e) Nothing in this section shall be construed as limiting or increasing the public's access to information on any aspect of oil spill prevention, abatement, and removal collected pursuant to other state or local laws, regulations, or ordinances.

SEC. 7. 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. 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.

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 establish procedures for collecting fees under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act and to thereby implement the oil spill prevention and response provisions of the act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 301

An act to amend Section 19616.1 of, and to add Section 19616.2 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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

SECTION 1. 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 by the entity conducting the out-of-state racing.

(c) From the amount deducted pursuant to subdivision (b), each

association shall pay a state license fee at a pro rata rate 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. 2. Section 19616.2 is added to the Business and Professions Code, to read:

19616.2. (a) Notwithstanding Section 19616.1, an association conducting wagering on an out-of-state feature race which is included in the parimutuel pool of the out-of-state entity conducting the out-of-state racing may, with permission of the board, deduct a percentage equal to the percentage deducted from the amount handled by the association in its parimutuel pools at its racing meeting.

(b) If an association accepts wagers in a common parimutuel pool on an out-of-state feature race deducts a percentage equal to that deducted from the amount handled by the association in its parimutuel pool at its racing meeting, as specified in subdivision (a), the payments on winning tickets shall be calculated as provided in Section 19602.

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

In order for the state to derive increased revenue during the 1991 racing season as soon as possible, it is necessary that this act take

effect immediately.

CHAPTER 302

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

[Approved by Governor August 1, 1991 Filed with Secretary of State August 1, 1991]

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

SECTION 1. The Legislature finds and declares as follows:

(a) For the 1990–91 fiscal year, the Newark Unified School District was entitled, under Section 16090 of the Education Code, to the levying of a tax upon the property in the district sufficient to raise for the district the amount to be withheld for that fiscal year from state apportionments to that district in repayment of certain bonded indebtedness related to school facilities construction, which indebtedness was approved by the voters prior to July 1, 1978.

(b) Due to a clerical error, the amount of property tax authorized by the county board of supervisors to be levied in the Newark Unified School District for the 1990–91 fiscal year was seven hundred seventeen thousand nine hundred thirty-nine dollars ($717,939) less than the amount to which the district is entitled for that fiscal year under Section 16090 of the Education Code.

SEC. 2. Notwithstanding Section 16090 of the Education Code, the Board of Supervisors of Alameda County may levy, for the 1991–92 fiscal year, a tax upon the property in the Newark Unified School District sufficient to raise for the district the amount of seven hundred seventeen thousand nine hundred thirty-nine dollars ($717,939), to be paid into the county treasury of Alameda County to the credit of the Tax Override Fund of that district.

SEC. 3. Due to the unique circumstances specified in Section 1 of this act concerning the Newark Unified School district, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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

In order to authorize the levying of a property tax in the Newark Unified School District for the 1991–92 fiscal year, in an amount sufficient to provide revenues to which that district is entitled for the 1990–91 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 303

An act to amend Section 707 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor August 1, 1991. Filed with Secretary of State August 1, 1991.]

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.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem as described in Section 205 of the Penal Code.

(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 304

An act to add and repeal Section 1281.5 of the Unemployment Insurance Code, relating to unemployment compensation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1991 Filed with Secretary of State August 2, 1991.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Severe freezing weather conditions which occurred in California from December 19, 1990, to January 3, 1991, inclusive, caused more than one billion dollars ($1,000,000,000) in damages to crops.

(b) The agriculture-dependent local economies in rural California where growers and agricultural workers live will suffer economic depression.

(c) More than 15,000 skilled workers have lost or will lose their jobs as a result of the freezing weather conditions.

(d) Many agricultural employees who receive hourly wages are low-income individuals who can least afford to be unemployed.

(e) The benefits of this act are intended as an extraordinary, one-time statewide response to this emergency, and are not to be construed to make any enduring structural change to the unemployment compensation program or to provide a precedent to seek similar or comparable benefits in the future.

SEC. 2. Section 1281.5 is added to the Unemployment Insurance Code, to read:

1281.5. (a) Any unemployed individual who, as determined by the director, has been laid off from work or is unable to commence work as a direct result of freezing weather conditions which occurred in this state from December 19, 1990, to January 3, 1991, inclusive, at the individual's most recent workplace or regular seasonal workplace whose continuing unemployment is a direct result of the freezing weather and who is otherwise eligible to receive benefits under this part, is eligible for an additional maximum of 26 times his or her weekly benefit amount.

(b) To the extent permitted by federal law, benefits payable under this section shall be available only when an individual has exhausted or is otherwise ineligible for other state or federal unemployment compensation. In the event an individual becomes eligible for federal-state extended unemployment compensation benefits prior to August 1, 1992, that individual shall become

ineligible for benefits under this section to the extent he or she is eligible for and receives federal-state extended unemployment benefits.

(c) Benefits shall be payable under this section only pursuant to claims made on or before July 31, 1992.

(d) (1) Any unemployed individual who, as determined by the director, has been unemployed as a direct result of freezing weather conditions that occurred from December 19, 1990, to January 3, 1991, inclusive, and who opens a claim for benefits on or after August 1, 1991, and can demonstrate that his or her maximum benefits or weekly benefit amount has been reduced as a result of wage credits lost due to the freeze and that he or she is otherwise eligible to receive benefits under this part, shall, at the claimant's election, have his or her weekly benefit amount and maximum benefits calculated based upon the base period ending December 31, 1990, or the base period established by the claimant's most recent unemployment insurance claim, whichever is greater.

(2) This subdivision shall be inapplicable in the event that the director makes a determination, after a public hearing, that the earning levels of freeze-affected individuals have not been significantly reduced as a result of freeze-related unemployment, layoffs, or underemployment during the 1991 calendar year.

(e) This section shall become operative on August 18, 1991, and shall remain in effect only until August 1, 1992, and as of that date 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:

Because workers of low and moderate income are in need of financial support as soon as possible as a result of an unforeseen natural disaster, it is necessary for this act to take effect immediately.

CHAPTER 305

An act to amend Section 90.1 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991]

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

SECTION 1. Section 90.1 of the Streets and Highways Code is amended to read:

90.1. The powers and duties enumerated in this section are intended to give the department broader authority to recruit and

retain qualified civil engineers.

(a) The department shall develop and implement a recruitment and incentive program for highway engineer positions which may include, but not be limited to, participation by the department in the repayment of student loans of persons recruited through the program. The department shall not expend more than one hundred twenty-five thousand dollars ($125,000) annually to develop and implement the student loan program, which may be paid from funds available to the department from the State Highway Account.

(b) The department shall determine the number of engineers needed in each of its 12 transportation districts and shall recruit engineers based on the personnel-year needs in each of the districts.

(c) In order to achieve the recruiting goal specified in subdivision (b), the director may offer salaries to prospective employees at any pay level above the lowest salary step, not to exceed the maximum of the range for which that person is qualified. Salaries of existing employees with similar qualifications in the same transportation district shall be increased to that level.

(d) To encourage registration, persons employed in the department's civil engineering entry level classification shall be eligible to advance to a higher salary range within the appropriate classification, as specified in the agreement entered into by the department and Professional Engineers in California Government on May 3, 1991. Movement within this range remains subject to performance criteria.

(e) The department shall provide training or reimbursement for departmental approved training and related expenses to prepare employees for engineering license and certificate examinations. This training shall include, but is not limited to, preparation for civil engineering, land surveying, or landscape architect license examinations, and engineer-in-training or land surveyor-in-training certificate examinations. Employees shall be allowed time off without loss of compensation to attend departmental approved training or educational preparation for those licenses and certificates.

(f) The director may offer student loans of up to five thousand dollars ($5,000) per student for tuition, room, board, and expenses directly related to school attendance, to students enrolled in land surveying or Accreditation Board for Engineering and Technology (ABET) certified structural and civil engineering curriculums. While these loans are intended to help recruit new engineers into the department, the director is not precluded from offering student loans to permanent state employees, at the discretion of the director. The student or employee shall be obligated to repay the entire loan to the department. However, for the first two years the employee works for the department, or the first two additional years an employee agrees to stay with the department, five hundred dollars ($500) of the loan shall be forgiven. For every additional year of employment after the first two or additional two years, one thousand

dollars ($1,000) of the loan shall be forgiven. If the employee voluntarily leaves the employment of the department prior to the entire loan being forgiven, the employee shall pay the remaining portion of the loan in accordance with a proportionate repayment policy adopted by the director. Criteria shall be established by the director to administer this program.

(g) The complexity of the department's engineering work and the level of responsibility imposed on the department's engineering staff have increased significantly. For example, engineering oversight for projects funded from sources such as county tax measures for transportation and the contracting out for basic engineering services have significantly increased that complexity and level of responsibility. To reflect this increase in complexity and level of responsibility, the first level of supervision for engineering positions shall be as specified in the agreement entered into by the department and Professional Engineers in California Government on May 3, 1991.

SEC. 2. The Department of Transportation shall, on or before January 1, 1992, prepare and transmit a preliminary report, and on or before July 1, 1992, prepare and transmit a final report, together with its findings, conclusions, and recommendations to the Legislature on (a) the effectiveness of its recruitment of engineers under Section 90.1 of the Streets and Highways Code, as amended by Section 1 of this act, and (b) its experience in contracting for engineering services outside of the department.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Senate Bill 805 and Senate Bill 1219 of the 1991–92 Regular Session are both chaptered and relate to the contracting for services by the Department of Transportation.

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, as quickly as possible, authorize the Department of Transportation to implement additional innovative measures in its engineer recruitment and retention program, to alleviate a critical shortage of qualified engineers, it is necessary that this act take effect immediately.

CHAPTER 306

An act to amend Section 6512 of the Health and Safety Code, relating to water.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991.]

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

SECTION 1. Section 6512 of the Health and Safety Code is amended to read:

6512. (a) A district may acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate garbage dump sites and garbage collection and disposal systems, sewers, drains, septic tanks, and sewerage collection, outfall, treatment works and other sanitary disposal systems, and storm water drains and storm water collection, outfall and disposal systems, and water reclamation and distribution systems, as the board deems necessary and proper, and in the performance of these functions, either in or out of the district, it may join through joint powers agreements pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, or through other means with any county or municipality or any other district or governmental agency.

(b) Before any garbage dump is established, the location shall first be approved by the county health officer, and, in addition, if the location is within two miles of any city the consent of the governing body of the city shall first be secured.

(c) If the district includes any part of a city, water district, or other local agency which provides water service to any territory in the district, the district shall not supply water service to the territory unless the district first obtains the consent of the city, water district, or other local agency. The consent shall not be revoked, if revocation will result in a decrease of the revenues available to pay the outstanding bonds of the district.

(d) The Department of Water Resources may assist sanitary districts in applying for, and in obtaining approval of, federal and state funding and permits for cost-effective water reclamation projects and shall confer and cooperate with the legislative body of the district during the application and approval process.

CHAPTER 307

An act to amend Sections 44260.3 and 44261 of the Education Code, relating to teacher credentialing.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991.]

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

SECTION 1. Section 44260.3 of the Education Code is amended to read:

44260.3. The minimum requirements for the five-year renewal of the preliminary designated subjects adult education teaching credential shall be all of the following:

(a) A valid designated subjects preliminary adult education teaching credential.

(b) Two years of successful teaching, or the equivalent, as authorized by the designated subjects preliminary adult education teaching credential.

(c) A program of personalized preparation as approved by the commission.

(d) Completion of a program of study in health education, including, but not limited to, training in, or verification of training in, cardiopulmonary resuscitation which meets the standards set by the American Heart Association or the American Red Cross and emphasis on the physiological and sociological effects of abuse of alcohol, narcotics, and drugs, and of the use of tobacco.

SEC. 2. Section 44261 of the Education Code is amended to read:

44261. Commencing January 1, 1992, the minimum requirements for the teaching credential also include the satisfactory completion of a unit requirement in health education, including, but not limited to, training in, or verification of training in, cardiopulmonary resuscitation which meets the standards established for the courses by the American Heart Association or the American Red Cross, and emphasis on the physiological and sociological effects of abuse of alcohol, narcotics, and drugs and of the use of tobacco.

CHAPTER 308

An act to amend Section 178 of the Corporations Code, relating to corporations.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991.]

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

SECTION 1. Section 178 of the Corporations Code is amended to read:

178. "Proxy" means a written authorization signed or an electronic transmission authorized by a shareholder or the shareholder's attorney in fact giving another person or persons power to vote with respect to the shares of such shareholder. "Signed" for the purpose of this section means the placing of the shareholder's name or other authorization on the proxy (whether by manual signature, typewriting, telegraphic, or electronic transmission or otherwise) by the shareholder or the shareholder's attorney in fact.

A proxy may be transmitted by an oral telephonic transmission if it is submitted with information from which it may be determined that the proxy was authorized by the shareholder, or his or her attorney in fact.

CHAPTER 309

An act to amend Sections 1905 and 2112 of the Corporations Code, and to amend Sections 23153, 23332, and 23334 of the Revenue and Taxation Code, relating to corporations.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991.]

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

SECTION 1. Section 1905 of the Corporations Code is amended to read:

1905. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the

certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That a person or corporation assumes the tax liability, if any, of the dissolving corporation as security for the issuance of a tax clearance certificate from the Franchise Tax Board and is responsible for additional corporate taxes, if any, that are assessed and that become due after the date of the assumption of the tax liability.

(4) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(5) That the corporation is dissolved.

(b) The assumption agreement specified in paragraph (3) of subdivision (a) shall be submitted to the Secretary of State for transmittal to the Franchise Tax Board. The statement provided for in paragraph (3) of subdivision (a) need not be set forth in the certificate if the assumption agreement specified therein is submitted to the Secretary of State with the certificate.

(c) The certificate of dissolution shall be filed with the Secretary of State and thereupon the corporate powers, rights, and privileges of the corporation shall cease. The Secretary of State shall notify the Franchise Tax Board of the filing and shall forward to the Franchise Tax Board any statement of assumption of tax liability accompanying the certificate of dissolution. The Franchise Tax Board shall determine from the available evidence whether or not all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured and shall notify the taxpayer of any outstanding tax liability and the necessity of satisfying the liability. The Franchise Tax Board shall notify the Secretary of State when all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured, at which time the corporation shall be dissolved as of the date of filing the certificate of dissolution and thereupon its corporate existence shall cease.

(d) When a corporation files a certificate of dissolution the Secretary of State shall notify the corporation that the corporation will be dissolved as of the date of filing only if the Franchise Tax Board notifies the Secretary of State that all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured.

SEC. 1.5. Section 1905 of the Corporations Code is amended to read:

1905. (a) When a corporation has been completely wound up

without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That a person or corporation assumes the tax liability, if any, of the dissolving corporation as security for the issuance of a tax clearance certificate from the Franchise Tax Board and is responsible for additional corporate taxes, if any, that are assessed and that become due after the date of the assumption of the tax liability.

(4) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(5) That the corporation is dissolved.

(6) If no certificate of election is to be filed pursuant to subdivision (c) of Section 1901, that the election to dissolve was made by the vote of all the outstanding shares.

(b) The assumption agreement specified in paragraph (3) of subdivision (a) shall be submitted to the Secretary of State for transmittal to the Franchise Tax Board. The statement provided for in paragraph (3) of subdivision (a) need not be set forth in the certificate if the assumption agreement specified therein is submitted to the Secretary of State with the certificate.

(c) The certificate of dissolution shall be filed with the Secretary of State and thereupon the corporate powers, rights, and privileges of the corporation shall cease. The Secretary of State shall notify the Franchise Tax Board of the filing and shall forward to the Franchise Tax Board any statement of assumption of tax liability accompanying the certificate of dissolution. The Franchise Tax Board shall determine from the available evidence whether or not all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured and shall notify the taxpayer of any outstanding tax liability and the necessity of satisfying the liability. The Franchise Tax Board shall notify the Secretary of State when all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured, at which time the corporation shall be dissolved as of the date of filing the certificate of dissolution and thereupon its

corporate existence shall cease.

(d) When a corporation files a certificate of dissolution the Secretary of State shall notify the corporation that the corporation will be dissolved as of the date of filing only if the Franchise Tax Board notifies the Secretary of State that all taxes imposed on the corporation pursuant to Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code have been paid or secured.

SEC. 2. Section 2112 of the Corporations Code is amended to read:

2112. (a) Subject to Section 2113, a foreign corporation which has qualified to transact intrastate business may surrender its right to engage in that business within this state by filing a certificate of surrender signed by a corporate officer stating:

(1) The name of the corporation as shown on the records of the Secretary of State, and the state or place of incorporation or organization.

(2) That it revokes its designation of agent for service of process.

(3) That it surrenders its authority to transact intrastate business.

(4) That it consents that process against it in any action upon any liability or obligation incurred within this state prior to the filing of the certificate of withdrawal may be served upon the Secretary of State.

(5) A post office address to which the Secretary of State may mail a copy of any process against the corporation that is served upon the Secretary of State, which address or the name to which the process should be sent may be changed from time to time by filing a statement signed by a corporate officer stating the new address or name or both.

(b) A tax clearance certificate issued by the Franchise Tax Board pursuant to Section 23334 of the Revenue and Taxation Code shall be filed with the certificate of surrender.

SEC. 3. Section 23153 of the Revenue and Taxation Code is amended to read:

23153. (a) Every bank and corporation described in subdivision (b) shall be subject to the minimum franchise tax specified in subdivision (d) from the earlier of the date of incorporation, qualification, or commencing to do business within this state, until the effective date of dissolution or withdrawal as provided in Section 23331 or, if later, the date the corporation ceases to do business within the limits of this state.

(b) Unless expressly exempted by the provisions of this part or the Constitution of this state, subdivision (a) shall apply to each of the following:

(1) Every bank or corporation which is incorporated under the laws of this state.

(2) Every bank or corporation which is qualified to transact intrastate business in this state pursuant to Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(3) Every bank or corporation which is doing business within the limits of this state.

(c) Credit unions shall not be subject to the minimum franchise tax specified in this section.

(d) (1) Except as provided in paragraph (2), banks and corporations subject to the minimum franchise tax shall pay annually to the state a minimum franchise tax of eight hundred dollars ($800).

(2) The minimum franchise tax shall be twenty-five dollars ($25) for each of the following:

(A) A corporation formed under the laws of this state whose principal business when formed was gold mining, which is inactive and has not done business within the limits of the state since 1950.

(B) A corporation formed under the laws of this state whose principal business when formed was quicksilver mining, which is inactive and has not done business within the limits of the state since 1971, or has been inactive for a period of 24 consecutive months or more.

(3) For purposes of paragraph (2), a corporation shall not be considered to have done business if it engages in other than mining.

(e) Notwithstanding subdivision (a), a domestic bank or domestic corporation, as defined in Section 167 of the Corporations Code, that files a certificate of dissolution in the office of the Secretary of State pursuant to subdivision (c) of Section 1905 of the Corporations Code and that does not thereafter do business shall not be subject to the minimum franchise tax for income years beginning on or after the date of that filing.

SEC. 5. 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 the 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 the taxable year prior to the effective date of the 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 the 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 the 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 that 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, 23153, 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 a tax clearance certificate is issued by the Franchise Tax Board:

(1) The taxpayer does not do business in this state at any time during that taxable year.

(2) The taxpayer files a certificate of dissolution with the Secretary of State prior to the beginning of that taxable year, in accordance with Section 1905 of the Corporations Code.

SEC. 6. Section 23334 of the Revenue and Taxation Code is amended to read:

23334. No decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the Secretary of State file any such decree, or file in the case of a credit union incorporated under the California Credit Union Law a certificate of election to dissolve, or in the case of any other taxpayer file a certificate of dissolution except as provided in subdivision (c) of Section 1905 of the Corporations Code or any other document by which the term of existence of the taxpayer shall be reduced or terminated, nor shall the Secretary of State file any certificate of the surrender by a foreign corporation of its right to do intrastate business in this state unless the taxpayer obtains from the Franchise Tax Board and files with the court, county clerk or Secretary of State as the case may be, a tax clearance certificate indicating that the Franchise Tax Board is satisfied from the available evidence that all taxes imposed by this chapter have been paid or are secured by bond, deposit, or otherwise. Within 30 days after receiving a request for a certificate, the Franchise Tax Board shall either issue the certificate or notify the person requesting the certificate of the amount of tax that must be paid or the amount of bond, deposit, or other security that must be furnished as a condition of issuing the certificate. The issuance of the certificate shall not relieve the taxpayer or any individual, bank, or corporation from liability for any taxes, penalties, or interest imposed by this part, nor shall the issuance of the certificate in the case of any credit union which revokes its election to wind up and dissolve, relieve that credit union of any taxes, or interest that would have been imposed under this part had the election not been filed.

The Franchise Tax Board shall furnish a copy of the tax clearance certificate to the Secretary of State.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 1905 of the Corporations Code proposed by both this bill and AB 82. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends

Section 1905 of the Corporations Code, and (3) this bill is enacted after AB 82, in which case Section 1 of this bill shall not become operative.

CHAPTER 310

An act to amend Section 19488 of, and to add Sections 19446 and 19481 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991.]

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

SECTION 1. Section 19446 is added to the Business and Professions Code, to read:

19446. In performing its responsibilities, the board shall do all of the following:

(a) Establish standards governing the uniformity and content of the track base and racing surface, inner and outer rails, gates and gaps, turf, access and egress to the track, lighting for night racing, equipment for horse and rider, drainage, communication, veterinary, medical and ambulance service, and other track facilities in order to improve the safety of horses, riders, and workers in the racing inclosure.

(b) Designate a steward at all horseracing meetings to be responsible for maintaining safety standards.

SEC. 2. Section 19481 is added to the Business and Professions Code, to read:

19481. Notwithstanding any other provision of law, no license shall be issued to conduct a horserace meeting upon a track unless the track has been inspected by the board within 30 days prior to the date of application for a license, and the track has been approved by the board as conforming to the racetrack safety standards set forth in Section 19446.

SEC. 3. Section 19488 of the Business and Professions Code is amended to read:

19488. Every license issued under this article shall specify the following:

(a) The name of the person to whom it is issued.

(b) The track where the horseracing meeting to which it relates is to be held or conducted.

(c) The days and hours of the day when the meeting will be permitted.

(d) The number and types of races to be run on each day of the meeting.

(e) The number of usable stalls available for the meeting.

(f) The name of the person responsible for supervising the

maintenance of racetrack safety standards.

The license shall also recite the payment to, and receipt by, the board of the deposit to secure payment of the license fee required by this article.

CHAPTER 311

An act to add and repeal Sections 62062.2 and 62713 of the Food and Agricultural Code, relating to milk, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991.]

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

SECTION 1. Section 62062.2 is added to the Food and Agricultural Code, to read:

62062.2. (a) The director, through the hearing process and upon determining that an emergency exists, may provide for a temporary increase in the minimum prices of milk established pursuant to this chapter on any or all classes of milk except classes 4a and 4b. This temporary increase of prices shall be separately stated in the stabilization and marketing plan and shall be in effect for not more than 12 months from the date of the adoption of the increase.

(b) For purposes of this section, "emergency" means an extreme economic hardship on a significant number of milk producers for an extended period of time.

(c) This section shall only be operative when a pooling plan, as provided in Chapter 3 (commencing with Section 62700), is in effect.

(d) This section shall become inoperative after five years from its effective date, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 62713 is added to the Food and Agricultural Code, to read:

62713. (a) Notwithstanding Sections 62711 and 62712, the director shall separate any funds generated from a temporary increase of milk prices pursuant to Section 62062.2 into a subpool. The funds in this subpool shall be distributed equally to all milk production in the pool. This section does not apply to any production exempt from the pool.

(b) This section shall become inoperative after five years from its effective date, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

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

In order to expeditiously address the problems of milk producers in the state caused by the current prolonged drought, it is necessary that this act take effect immediately.

CHAPTER 312

An act to amend Section 14529.7 of the Government Code, relating to highways.

[Approved by Governor August 2, 1991 Filed with Secretary of State August 2, 1991]

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

SECTION 1. Section 14529.7 of the Government Code is amended to read:

14529.7. (a) A local jurisdiction may, with the concurrence of the appropriate transportation planning agency, the commission, and the department, advance a project included in the state transportation improvement program to an earlier fiscal year through the use of its own funds. A project advanced in this manner shall be deliverable by the state, or by the local jurisdiction pursuant to agreement, in the earlier year proposed by the local jurisdiction.

If a project is advanced pursuant to this subdivision, the state transportation improvement program shall be revised at the time of annual adoption or by amendment to show the project in the earlier fiscal year.

With the concurrence of the appropriate transportation planning agency, the commission, and the department, one or more replacement state transportation projects shall be identified and included in the state transportation improvement program for the equivalent escalated dollar value and at the originally scheduled fiscal year of the advanced project. If the project to be advanced is programmed with federal funds, the replacement project or projects shall not result in an increase in state matching funds. A replacement project or projects shall have no lower priority for funding and delivery than did the advanced project, as originally scheduled.

(b) A city or county may enter into an agreement with the appropriate transportation planning agency, the department, and the commission to use its own funds to develop, purchase right-of-way for, and construct a street or highway project within its jurisdiction if the project is one which is included in the adopted state transportation improvement program, pursuant to all of the following requirements:

(1) Projects constructed pursuant to this subdivision shall conform to all applicable state and federal design and construction standards.

(2) The commission, in consultation with the department and local transportation officials, shall develop and adopt guidelines to implement this subdivision. The guidelines shall include a requirement that the expenditure of local funds will result in the completion of an operable segment of a street or highway project.

(3) Pursuant to the agreement, and from funds allocated by the commission for the project in the year it was scheduled in the state transportation improvement program, the department shall reimburse a city or county for the actual cost of constructing the project, including the acquisition of right-of-way, with local funds pursuant to this subdivision. The amount reimbursed to a city or county shall not exceed the amount programmed for expenditure for the project in the state transportation improvement program.

(4) From funds appropriated to the department for project development work, the department shall reimburse a city or county for the actual cost of developing the project with local funds pursuant to this subdivision. Reimbursement of project development costs shall not exceed 20 percent of estimated construction costs. In no case shall this reimbursement exceed any lesser amount mutually agreed to by the department, commission, and local agency. Reimbursement shall occur in a year not later than when the project was originally scheduled for delivery in the state transportation improvement program.

(5) The commission shall prepare a report on the progress and impact of the local street and highway construction program authorized by this subdivision and shall include the report as an element of the annual report to the Legislature required pursuant to Sections 14535 and 14536 of the Government Code.

(6) Reimbursements made to local agencies pursuant to this subdivision for expenditures of local voter approved sales and use tax revenues shall be used for the same purposes for which the imposition of the sales and use tax is authorized.

(7) A project which is constructed pursuant to this subdivision is ineligible for funding from the State-Local Transportation Partnership Program established by Chapter 16 (commencing with Section 2600) of Division 3 of the Streets and Highways Code.

CHAPTER 313

An act to amend Sections 14130, 14131, and 14134 of, and to add Section 14131.1 to, the Government Code, relating to the Department of Transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991]

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

SECTION 1. It is the intent of the Legislature that in implementing Article 2.5 (commencing with Section 14130) of Chapter 2 of Part 5 of Division 3 of Title 2 of the Government Code, the Department of Transportation shall, in addition to the criteria established in that article, do both of the following:

(a) Have state employees perform all engineering and related services to the maximum extent required to meet the goals of that article.

(b) Use every practical means to staff to a level which matches its ability to assimilate and productively use new staff.

SEC. 1.5. Section 14130 of the Government Code is amended to read:

14130. (a) The Legislature hereby finds and declares all of the following:

(1) There is a compelling public interest in ensuring that all federal, state, local, and private funds available for the state highway program are captured and used in a timely manner.

(2) In order to maximize the use of federal, state, local, and private funds and to maintain a competitive posture in seeking supplemental federal funds, it is necessary for California to be plan-ready.

(3) Changes in federal, state, and local revenues and the growing private participation in state highway construction can result in significant fluctuations in workload relating to project study reports, project development, surveying, and construction inspection. To maintain a more stable workforce in the department and avoid the costly process of short-time hiring and layoff while still responding in a timely manner to funding opportunities and uncertainties, additional flexibility through outside contracting and cooperative agreements with local public agencies is needed to supplement the department's program staff.

(b) Therefore, it is the intent of the Legislature that the department contract for the services of engineers, architects, surveyors, planners, environmental specialists, and materials testing specialists, in order to provide professional and technical project development services to the department whenever the department is inadequately staffed to satisfactorily carry out its program of

project study reports, project development, surveying, and construction inspection in a timely and effective manner. It is the further intent of the Legislature to permit, through cooperative agreements with the department, local public agencies to undertake that program of activities on state highway projects for which they are a funding source.

SEC. 2. Section 14131 of the Government Code is amended to read:

14131. The department may contract for the services of engineers, architects, surveyors, planners, environmental specialists, and materials testing specialists to provide professional and technical services relating to project study reports, project development, surveying, and construction inspection whenever the director determines that the guidelines adopted pursuant to Section 14134 are applicable. Services contracted for shall not cause the displacement of any permanent, temporary, or part-time employee of the department.

For purposes of this section, "displacement" means layoff, demotion, involuntary transfer to a new class, or involuntary transfer to a new work location requiring the employee to change his or her place of residence in order to be able to continue in his or her job classification.

SEC. 3. Section 14131.1 is added to the Government Code, to read:

14131.1. The department, in applying the criteria for contracting for services established pursuant to this article, shall consider the workload relating to project study reports, project development, surveying, and construction inspection based on the total program relating to those factors for each fiscal year. In determining the appropriateness of contracting, the provisions of this article and the guidelines adopted pursuant to this article may be applied to the total program relating to project study reports, project development, surveying, and construction inspection for the fiscal year. Application of the provisions of this article and the guidelines to each individual contract for services is not required.

Once the department applies the provisions of this article and the guidelines to the total project development program for the fiscal year and determines the total personnel years allocated for contracting out for the fiscal year, there shall be no further requirement to identify or refer to specific facts or guidelines which justify contracting out regarding individual contracts.

SEC. 4. Section 14134 of the Government Code is amended to read:

14134. (a) The department, after consultation with the commission and local transportation agencies, shall adopt guidelines for determining the appropriateness of contracting with private firms or on projects developed cooperatively with local jurisdictions. The guidelines shall include, but not be limited to, consideration of the following:

(1) Ensuring that all available federal, state, and local funds, including supplemental federal funds, are captured and used in a timely manner.

(2) Reducing short-term fluctuations in the department's workload relating to project study reports, project development, surveying, and construction inspection while still enabling the department to be plan-ready.

(3) Facilitating the expeditious use of locally raised funds for state highway projects, recognizing that, in this instance, local governments are partners in state highway construction and that locally financed projects should not be unnecessarily delayed.

(4) Ensuring that the cost effectiveness of contracting is considered equally with other factors when a determination of the appropriateness of contracting is made.

(5) Ensuring that contract selection is performed in accordance with applicable state laws regarding the selection of professional architectural, engineering, environmental, or land surveying services, and to ensure the selection process avoids or prohibits unlawful or unfair procedures or activities.

(b) These guidelines shall serve as general criteria for the determination of the appropriateness of contracting for services relating to project study reports, project development, surveying, and construction inspection and shall not be deemed to require the department to contract for specific projects solely because they may meet these criteria.

(c) The department may contract with local jurisdictions, rather than with private firms, for professional and technical services relating to project study reports, project development, surveying, and construction inspection. In such a case, the services shall be only for a project located within the area of the local jurisdiction.

SEC. 5. Sections 1, 1.5, 2, 3, and 4 of this act shall become operative only if Senate Bill 805 and Assembly Bill 915 of the 1991–92 Regular Session are both chaptered and relate to the (a) contracting for services by the Department of Transportation and (b) recruitment and retention of engineers by the department, respectively.

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 reduce transportation project delivery delays and improve transportation service, it is necessary that this act take effect immediately.

CHAPTER 314

An act to amend Sections 4525, 4526, 4527, 4528, 14133, 14135, and 14524.2 of, and to repeal Section 14136 of, the Government Code, relating to contracts.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 2, 1991]

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

SECTION 1. Section 4525 of the Government Code is amended to read:

4525. For purposes of this chapter, the following terms have the following meanings:

(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

(b) "State agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(c) "Local agency head" means the secretary, administrator, or head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district which is authorized to contract for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services.

(d) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(e) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 for management and supervision of work performed on state construction projects.

(f) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.

SEC. 2. Section 4526 of the Government Code is amended to read:

4526. Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private

architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation, and local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100.

SEC. 3. Section 4527 of the Government Code is amended to read:

4527. In the procurement of architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services, the state agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(a) When the selection is by a state agency head, statewide announcement of all projects requiring architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(b) When the selection is by a local agency head, the agency head may undertake the procedures described in subdivision (a). In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when these employees have a relationship with a person or business entity seeking a contract under this section.

SEC. 4. Section 4528 of the Government Code is amended to read:

4528. (a) When the selection is by a state agency head the following procedures shall apply:

(1) The state agency head shall negotiate a contract with the best qualified firm for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services at compensation which the state agency head determines is fair and reasonable to the State of California or the political subdivision involved.

(2) Should the state agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable to the State of California or the political subdivision involved, negotiations with that firm shall be formally terminated. The state agency head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the state agency head shall terminate negotiations. The state agency head shall then undertake negotiations with the third most qualified firm.

(3) Should the state agency head be unable to negotiate a satisfactory contract with any of the selected firms, the state agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

(b) When the selection is by a local agency head, the local agency head may undertake the procedures described in subdivision (a).

SEC. 5. Section 14133 of the Government Code is amended to read:

14133. (a) Contracts made pursuant to this article are not subject to Article 4 (commencing with Section 19130) of Chapter 6 of Part 2 of Division 5.

(b) Contracts for engineering, architectural, landscape architectural, or environmental services made pursuant to this article are subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1. Notwithstanding Section 10295 of the Public Contract Code, the determination as to whether the guidelines for contracting adopted pursuant to Section 14134 have been met shall be the sole responsibility of the Director of Transportation. The Department of General Services shall have 30 working days upon

receipt of a contract under this article in which to act on the contract, except in cases where further clarification is required by the department to execute the contract.

SEC. 6. Section 14135 of the Government Code is amended to read:

14135. Each contract for engineering, architectural, or landscape architectural services entered into pursuant to this article and any construction contract resulting therefrom is subject to all of the following conditions:

(a) The engineering, architectural, or landscape architectural firm providing design services for a project is not eligible to bid on or to be awarded the construction contract for that project.

(b) The department shall provide a regular civil service employee as the resident engineer on any construction contract that results from project design services performed by engineers, architects, or landscape architects selected pursuant to this article.

(c) All contract plans and changes to plans prepared by an engineer, architect, or landscape architect selected pursuant to this article shall be subject to review and approval by a licensed engineer, architect, or landscape architect of the department.

SEC. 7. Section 14136 of the Government Code is repealed.

SEC. 8. Section 14524.2 of the Government Code is amended to read:

14524.2. (a) If the department's total project delivery plan for any year pursuant to subdivision (a) of Section 14524.15 requires a permanent and temporary capital outlay support staffing level which equals the 1986–87 budgeted permanent and temporary capital outlay support staffing level, the department's budget request for that year shall contain a permanent and temporary capital outlay support staffing level equal to its 1986–87 authorized permanent and temporary capital outlay support staffing level.

(b) If the department's total project delivery plan for any year pursuant to subdivision (a) of Section 14524.15 requires a permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime and contract services which exceeds the 1986–87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime and contract services, the department's budget request for that year shall contain a permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime equal to the 1986–87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime plus one-half of the excess over the 1986–87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime and contract services. The department may contract out, pursuant to Section 14131, an equal number of personnel year equivalents for each authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime which

exceeds the 1986–87 authorized permanent and temporary capital outlay support staffing level and personnel year equivalents for cash overtime.

(c) For purposes of this section, "permanent and temporary capital outlay support staffing level" means the department's permanent and temporary capital outlay support staffing level funded by state and federal funds through the State Highway Account.

SEC. 9. Sections 1 to 8, inclusive, of this act shall not become operative unless Senate Bill 1219 in the form as amended in Assembly July 9, 1991, and Assembly Bill 915 in the form as amended in Senate June 18, 1991, of the 1991–92 Regular Session, are both chaptered and become effective.

CHAPTER 315

An act to amend Section 1328 of the Penal Code, relating to criminal procedure.

[Approved by Governor August 2, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 1328 of the Penal Code is amended to read:

1328. (a) A subpoena may be served by any person, except that the defendant may not serve a subpoena in the criminal action to which he or she is a party, but a peace officer shall serve in his or her county any subpoena delivered to him or her for service, either on the part of the people or of the defendant, and shall, without delay, make a written return of the service, subscribed by him or her, stating the time and place of service. The service is made by delivering a copy of the subpoena to the witness personally.

(b) When service is to be made on a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, unless the parent, guardian, conservator, or fiduciary or other specified person is the defendant, and on the minor if the minor is 12 years of age or older. The person so served shall have the obligation of producing the minor at the time and place designated in the subpoena. A willful failure to produce the minor is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure. The person so served shall be allowed the fees and expenses that are provided for subpoenaed witnesses.

(c) Whenever any peace officer designated in Section 830 is required as a witness before any court or magistrate in any action or

proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties, a subpoena requiring his or her attendance may be served either by delivering a copy to the peace officer personally or by delivering two copies to his or her immediate superior or agent designated by his or her immediate superior to receive the service. If service is made upon the immediate superior or agent designated by the immediate superior, the immediate superior or the agent shall deliver a copy of the subpoena to the peace officer as soon as possible and in no event later than a time which will enable the peace officer to comply with the subpoena.

(d) If the immediate superior or his or her designated agent upon whom service is attempted to be made knows he or she will be unable to deliver a copy of the subpoena to the peace officer within a time which will allow the peace officer to comply with the subpoena, the immediate superior or agent may refuse to accept service of process and is excused from any duty, liability, or penalty arising in connection with the service, upon notifying the server of that fact.

(e) If the immediate superior or his or her agent is tendered service of a subpoena less than five working days prior to the date of hearing, and he or she is not reasonably certain he or she can complete the service, he or she may refuse acceptance.

(f) If the immediate superior or agent upon whom service has been made, subsequently determines that he or she will be unable to deliver a copy of the subpoena to the peace officer within a time which will allow the peace officer to comply with the subpoena, the immediate superior or agent shall notify the server or his or her office or agent not less than 48 hours prior to the hearing date indicated on the subpoena, and is thereby excused from any duty, liability, or penalty arising because of his or her failure to deliver a copy of the subpoena to the peace officer. The server, so notified, is therewith responsible for preparing the written return of service and for notifying the originator of the subpoena if required.

(g) Notwithstanding subdivision (c), in the case of peace officers employed by the California Highway Patrol, if service is made upon the immediate superior or upon an agent designated by the immediate superior of the peace officer, the immediate superior or the agent shall deliver a copy of the subpoena to the peace officer on the officer's first workday following acceptance of service of process. In this case, failure of the immediate superior or the designated agent to deliver the subpoena shall not constitute a defect in service.

CHAPTER 316

An act to amend Section 1596.792 of the Health and Safety Code, relating to child day care.

[Approved by Governor August 2, 1991. Filed with Secretary of State August 5, 1991.]

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 session 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. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions which total more than 12 hours per week for each child.

(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.

CHAPTER 317

An act to amend Sections 19605.7, 19605.71, 19605.73, and 19617.2 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 19605.7 of the Business and Professions Code 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, Arabian, 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 Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; 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 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, Arabian, 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 Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; 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 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, Arabian, 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 Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; 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 19617.2 of the Business and Professions Code is

amended to read:

19617.2. (a) Any association conducting a race meeting which includes thoroughbred racing shall deposit with the official registering agency 0.34 percent of the total amount handled on-track, and 0.40 percent of the total amount handled off-track, in daily conventional and exotic parimutuel pools resulting from thoroughbred racing. These deposits shall be made at the following intervals:

(1) For any meeting of 20 racing days or less, the requisite deposit shall be made not later than seven days immediately following the last day of that meeting.

(2) For any meeting of more than 20 racing days, the initial deposit shall be made not later than 27 racing days after the commencement of that meeting and every 20 racing days thereafter, with a final deposit made not later than seven days following the last day of that meeting. The initial deposit for that meeting shall be based upon the applicable amount handled during the first 20 racing days of the meeting and deposits thereafter shall be based upon the applicable amount handled during the ensuing periods of 20 racing days with the last deposit being based upon the applicable amount handled from the end of the last 20-racing day period for which a deposit has been made to the end of the meeting.

(b) After deducting a sum equal to 5 percent of the total deposits made pursuant to subdivision (a) and the total deposits made pursuant to other provisions of this chapter, including Sections 19596.5, 19596.6, 19611.5, 19614.2, and 19616, the amount to compensate the official registering agency for its administrative cost and for expenses it incurs for educational, promotional, and research programs, the official registering agency shall for computational purposes distribute annually the balance of the deposits in the following manner:

(1) To the breeder fund, 55 percent from which breeder awards are to be paid.

(2) To the owner fund, 20 percent from which owner premiums are to be paid.

(3) To the stallion fund, 20 percent from which stallion awards are to be paid.

(4) To the California-bred race fund, 5 percent to be used for the promotion of California-bred races and from which purses are to be provided or supplemented for California-bred races, which fund shall be administered by the official registering agency. Any funds not so used during any year shall augment the owner fund of that year and be distributable therefrom.

(c) The official registering agency shall make the following payments to the breeder, owner, and stallion owner so as to encourage agriculture and the breeding of higher quality horses in this state:

(1) The breeder shall be paid a breeder award equal to the quotient for the breeder fund multiplied by the eligible earnings of

the horse bred by the breeder.

(2) The owner shall be paid an owner premium equal to the quotient for the owner fund multiplied by the eligible earnings of the horse he or she owns.

(3) The stallion owner shall be paid a stallion award equal to the quotient for the stallion fund multiplied by the eligible earnings of the stallion owner's eligible thoroughbred sire.

(4) The breeder awards, owner premiums, and stallion awards shall be paid not later than March 31 of the calendar year immediately following the calendar year for which the awards or premiums were earned.

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 this act take effect and apply during the 1991 season, it is necessary that this act take effect immediately.

CHAPTER 318

An act to add Section 95.6 to the Streets and Highways Code, relating to highways.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

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

(a) The use of deicing salt on some California state highways has resulted in environmental damage to trees and other roadside vegetation.

(b) Deicing salt causes corrosion problems to public infrastructure and private automobiles.

(c) Reduced use of deicing materials increases the number of vehicular accidents and results in additional delays in the movement of interstate transportation.

(d) The Department of Transportation, pursuant to Resolution Chapter 157 of the Statutes of 1989, evaluated the use of a deicing salt substitute on state highways and reported its findings and recommendations to the Legislature and the Governor.

(e) Where environmental damage from salt use is considered too great, it is necessary to develop a snow and ice removal policy that does not compromise the safety of the motoring public.

(f) It is the intent of the Legislature that the use of salt as a primary deicing agent on state highways be reviewed on a route-by-route basis, with priority being given to areas already

damaged by the cumulative effect of the drought and road salt, including, but not limited to, the Lake Tahoe Basin, with the objective that the use of salt be reduced from the yearly average use during the period 1976 to 1988, inclusive, or replaced with an environmentally safe deicing method.

SEC. 2. Section 95.6 is added to the Streets and Highways Code, to read:

95.6. (a) The department shall adopt and implement, on or before July 1, 1992, a deicing policy for state highways. The policy shall be set forth in a plan and method for deicing state highways, using all appropriate deicing technologies, while at the same time maintaining highway safety.

(b) The plan shall be submitted to the Legislature on or before July 1, 1992. All or part of the elements of the plan shall be incorporated in the department's budget proposal for the 1992–93 fiscal year and budget proposals for subsequent fiscal years. The department shall examine all possible funding sources.

(c) The plan shall include, but not be limited to, all of the following:

(1) A review of research conducted in California and other states on the use of deicing salt substitutes and deicing technologies.

(2) When available, the incorporation of applicable technical findings of the ongoing study by the Transportation Research Board of the National Research Council which will analyze the costs to the public and private sectors, including, but not limited to, damage to vegetation, highway structures, and motor vehicles, of using salt as a deicing agent as compared with the use of commercially available substitute deicing materials or techniques.

(3) A plan for reducing or eliminating the use of salt as a primary deicing agent on specified routes, including, but not limited to, State Highway Routes 28, 50, 80, and 89 in the Lake Tahoe Basin, and substituting environmentally safe deicing techniques where significant environmental damage has already occurred, in accordance with the legislative intent expressed in subdivision (f) of Section 1 of the act which added this section.

(4) An analysis of the direct cost to each state transportation district for both initial capital costs, including repair of road salt's environmental damage, and annual costs to convert to an environmentally safe deicing policy.

CHAPTER 319

An act to amend Section 89720 of, and to add Section 89720.5 to, the Education Code, relating to postsecondary education.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. The Legislature finds and declares that the efficient and economical handling of state property is a matter of statewide concern, and it is therefore necessary and desirable that opportunities for flexible and expeditious handling of property be provided to the various agencies of state government. The purpose of this act is to grant the Trustees of the California State University the ability to react expeditiously to real property opportunities that will best meet future campus requirements. However, this act is intended to apply only to interests in real property received by the California State University as gifts, bequests, devises, or donations pursuant to Section 89720 of the Education Code.

Further, it is the intent of the Legislature that this act not exempt the Trustees of the California State University from any other requirements of law relating to state property, such as Chapter 907 of the Statutes of 1986, or from other provisions of law which require that the Trustees of the California State University not expend revenues received from the disposition of real property received pursuant to Section 89720 of the Education Code without the approval of the Director of Finance.

SEC. 2. Section 89720 of the Education Code is amended to read:

89720. The trustees may accept on behalf of the state any gift, bequest, devise, or donation of real or personal property whenever the gift and the terms and conditions thereof will aid in carrying out the primary functions of the California State University as specified in Section 66608. Neither Section 11005 of the Government Code nor any other law requiring approval by a state officer of gifts, bequests, devises, or donations shall apply to these gifts, bequests, devises, or donations. These gifts, bequests, devises, or donations, and the disposition thereof, shall be annually reported to the California Postsecondary Education Commission, the Joint Legislative Budget Committee, and the Department of Finance by January 5 of each year.

Notwithstanding Sections 11005.2 and 14664 of the Government Code or any other law to the contrary, the trustees may sell or exchange interests in real property received pursuant to this section when, in the judgment of the trustees, the sale or exchange is in the best interests of the California State University. No sale or exchange of an interest in real property made pursuant to this section shall exceed ten million dollars ($10,000,000) per transaction.

Notwithstanding Sections 11005 and 15853 of the Government Code or any other provision of law to the contrary, the trustees may purchase interests in real property from moneys received pursuant to this section, including those moneys received from the sale or exchange of interests in real property pursuant to this section. Any such purchase shall be consistent with any restrictions placed upon the gift, bequest, devise, or donation and shall be in the best interests of the California State University, as determined by the trustees.

No interest in any real property that is part of a main campus of any of the institutions of the California State University listed in Section 89001 shall be sold or exchanged pursuant to this section.

Any sale or exchange of interests in real property carried out pursuant to this section shall be reported annually to the California Postsecondary Education Commission, the Joint Legislative Budget Committee, and the Department of Finance, by January 5 of each year.

SEC. 3. Section 89720.5 is added to the Education Code, to read:

89720.5. Prior to the sale of any interests in real property pursuant to Section 89720, the trustees shall offer the interests to local governmental agencies. It is the intent of the Legislature that the trustees may transfer interests at less than fair market value under the conditions described in Section 11011.1 of the Government Code, except that all powers and duties of the Director of General Services, the Department of General Services, and the State Public Works Board under that section shall be performed by the trustees.

For purposes of this section, "local governmental agencies" shall not include private entities, private nonprofit entities, private tax exempt entities, or any consortium, cooperative, or combination of private-public entities or organizations.

CHAPTER 320

An act to add Sections 10235.5 and 17539.4 to the Business and Professions Code, and to add Sections 22411.5, 24411.5, and 26411.5 to the Financial Code, relating to advertising.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 10235.5 is added to the Business and Professions Code, to read:

10235.5. No real estate licensee shall place an advertisement disseminated primarily in this state for a loan unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.

SEC. 2. Section 17539.4 is added to the Business and Professions Code, to read:

17539.4. No person shall place an advertisement disseminated primarily in this state for a loan which utilizes real property as collateral unless there is disclosed within the printed text of that advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged, the state regulatory entity supervising that type of loan transaction or, in the case of unlicensed lending activity, a statement that the loan is being made or arranged by an unlicensed party who is not operating under the regulatory supervision of a state agency.

This section shall not apply to any bank or bank holding company, or to any savings association or federal association as defined by Section 5102 of the Financial Code, or to any subsidiary or affiliate of these entities if the subsidiary or affiliate is not separately licensed.

SEC. 3. Section 22411.5 is added to the Financial Code, to read:

22411.5. No licensee shall place an advertisement disseminated primarily in this state for a loan unless it discloses within the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.

SEC. 4. Section 24411.5 is added to the Financial Code, to read:

24411.5. No licensee shall place an advertisement disseminated primarily in this state for a loan unless it discloses within the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.

SEC. 5. Section 26411.5 is added to the Financial Code, to read:

26411.5. No licensee shall place an advertisement disseminated primarily in this state for a loan unless it discloses within the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, the license under which the loan would be made or arranged.

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 321

An act to amend Sections 4601.5 and 7004.5 of the Civil Code, and to amend Section 547.5 of the Code of Civil Procedure, relating to family law.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991]

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

SECTION 1. Section 4601.5 of the Civil Code is amended to read:

4601.5. In making an award authorizing visitation pursuant to Section 4601, if an order has been directed to a parent pursuant to paragraph (2), (3), or (6) of subdivision (a) of Section 4359 during the pendency of the proceeding or pursuant to Section 4516, paragraph (1) , (2), or (3) of subdivision (a) of Section 7020 or pursuant to Section 7021, or Section 546 or subdivision (a) of Section 547 of the Code of Civil Procedure, the court shall consider whether the best interests of the child require that any visitation granted to that parent shall be limited to situations in which a third person, specified by the court, is present. The court shall include a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order in its deliberations.

A parent may submit the name of a person to the court that he or she deems suitable to be present during visitation.

SEC. 2. Section 7004.5 of the Civil Code is amended 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.

In making an award authorizing visitation pursuant to this section, if an order has been directed to a parent pursuant to paragraph (2), (3), or (6) of subdivision (a) of Section 4359 or pursuant to Section 4516, paragraph (1), (2), or (3) of subdivision (a) of Section 7020 or pursuant to Section 7021, or Section 546 or subdivision (a) of Section 547 of the Code of Civil Procedure, the court shall consider whether the best interest of the child requires that any visitation granted to that parent shall be limited to situations in which a third person, specified by the court, is present. The court shall include a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order in its deliberations.

A parent may submit the name of a person to the court that he or she deems suitable to be present during visitation.

SEC. 3. Section 547.5 of the Code of Civil Procedure is amended to read:

547.5. In making an award of temporary custody of a child pursuant to this chapter, if an order has been directed to a parent of the child pursuant to Section 546 or pursuant to subdivision (a) of Section 547, paragraph (2), (3), or (6) of subdivision (a) of Section 4359 or Section 4516 of the Civil Code, or paragraph (1), (2), or (3) of subdivision (a) of Section 7020 or Section 7021 of the Civil Code, the court shall consider whether the best interests of the child require that any visitation granted to that parent with respect to the child shall be limited to situations in which a third person, specified by the court, is present. The court shall include a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order in its deliberations.

A parent may submit the name of a person that he or she deems suitable to be present during visitation to the court.

The determination of the best interests of the child pursuant to this section shall include the considerations specified in Section 4608 of the Civil Code.

CHAPTER 322

An act to add Section 86112.5 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 86112.5 is added to the Government Code, to read:

86112.5. (a) Each person filing a report pursuant to this article shall provide each beneficiary of a gift listed within the report the following information:

(1) The date and amount of each gift reportable by the beneficiary.

(2) A description of the goods or services provided to the beneficiary.

(b) The information required to be disclosed pursuant to subdivision (a) shall be provided to the beneficiary within 30 days following the end of each calendar quarter in which the gift was provided. For the purposes of meeting the disclosure requirements of this section, a lobbyist firm or lobbyist employer may provide the beneficiary a copy of the activity expense section of the report submitted to the Secretary of State pursuant to this article.

(c) The remedies provided in Chapter 3 (commencing with Section 83100) constitute the exclusive penalty for a violation of this

section. The remedies provided in Chapter 11 (commencing with Section 91000) do not apply to this section.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 323

An act to add Section 1526.4 to the Fish and Game Code, relating to state lands, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991]

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

SECTION 1. Section 1526.4 is added to the Fish and Game Code, to read:

1526.4. (a) The department, upon request of the leaseholder, shall extend any existing lease for a recreational homesite on Lower Sherman Island to the holder of any lease of lands under the control of the department, under the following conditions:

(1) The existing lease is between the department and an individual person, partnership, or any affiliated group of two or more persons.

(2) Subject to subdivision (e), the lease may be extended for the natural life of the person who is the leaseholder on January 1, 1991. With respect to any lease to an affiliated group or an association of persons, the lease shall expire upon the death of the last individual who is a leaseholder on January 1, 1991.

(3) The lease, or any interest therein, may not be transferred, bequeathed, hypothecated, encumbered, sublet, assigned, sold, alienated, exchanged, or otherwise changed to the benefit of another party. The leaseholder shall annually certify to the department that he or she has not transferred, bequested, hypothecated, encumbered, sublet, assigned, sold, alienated, or exchanged the lease for consideration or by gift, or otherwise.

(4) If a lease is violated or breached by the leaseholder at any time during the life of the leaseholder, the lease may be terminated by the department within 30 days of the receipt by the department of actual or constructive notice of the breach.

(b) All leases entered into pursuant to this section shall include the following:

(1) A requirement for public access to navigable waters adjacent to the lease properties.

(2) A provision prohibiting the introduction and cultivation of

exotic plant species and requiring existing exotic plant species to be removed according to a plan developed by the department.

(3) A provision establishing the right of the department and county employees to inspect the property for the purposes of monitoring and enforcing the conditions of the lease.

(4) A provision requiring the lessee, within 60 days after the lease is extended, and annually thereafter, to provide the department with proof that (A) the lessee will remove the buildings and all ancillary structures and facilities necessary to return the area to a natural condition, or (B) the lessee has made arrangements for the removal of the buildings and all ancillary structures and facilities necessary to return the area to a natural condition, upon termination of the lease.

(c) The department shall develop a plan for the removal of nonnative plants from the island. The plan shall include, at a minimum, the following:

(1) The type and location of nonnative plants.

(2) The relative threat that these plants pose to the natural environment of the island.

(3) A time schedule for the leaseholders to remove the nonnative plants within 200 yards of the leaseholders' structures.

(d) Proceeds from the leases of lands under the control of the department on Lower Sherman Island shall be deposited in the Fish and Game Preservation Fund and used for the purpose of enforcing and monitoring those lease terms and managing the Lower Sherman Island Wildlife area.

(e) The department shall, on or before July 31, 1991, and annually thereafter, review all leases of land subject to subdivision (a) under the control of the department and, as soon as possible, charge the fair market rate on those leases of land.

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:

The leases affected by this act will expire on July 31, 1991. Therefore, in order that this act apply to those leases before their expiration, it is necessary that it take effect immediately.

CHAPTER 324

An act to amend and repeal Section 7071.6 of the Business and Professions Code, relating to contractors.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 7071.6 of the Business and Professions Code, as amended by Section 1 of Chapter 1177 of the Statutes of 1989, is amended to read:

7071.6. (a) Except as provided in Section 7071.8 and subdivision (b), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of five thousand dollars ($5,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.

(b) Notwithstanding subdivision (a), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license for the license classification of swimming pool contractor, that the applicant file or have on file a contractor's bond in the sum of ten thousand dollars ($10,000). No bond shall be required of a holder of an inactive license during the period the license is inactive.

(c) Notwithstanding any other provision of the law, the board shall require, as a condition to the continued maintenance of any active license, that the holder of a license file, or have on file, on and after January 1, 1980, a contractor's bond in the sum of five thousand dollars ($5,000); provided, that the holder of a license for the classification of swimming pool contractor file, or have on file, a contractor's bond in the sum of ten thousand dollars ($10,000).

(d) Notwithstanding any other provision of law, the board shall require, as a condition precedent to the issuance, reinstatement, or reactivation of a license, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an entered and unsatisfied final judgment from a court of law, file or have on file with the board a judgment bond or other security sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the judgment bond is filed with the board. The judgment bond is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after that the bond may be removed by submitting proof of satisfaction of all debts. The applicant may

provide the board with a notarized copy of any accord, reached with any judgment creditor holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. Failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension, by operation of law, of any license to which this section applies. After a license is suspended for failure to maintain the bond or abide by the accord the license can only be reinstated when proof of a satisfaction of all debts is made.

Except as otherwise provided, the judgment bond shall remain in full force in the amount posted until the entire debt is satisfied. If at the time of renewal, the licensee submits proof of partial satisfaction of the outstanding final judgment, the board may authorize the judgment bond be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the judgment bond requirement may be removed.

The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made under penalty of perjury, as to whether there are any entered and unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, or the applicant's employees. Notwithstanding any other provision of law if it is found that the applicant falsified the statement then the license will be retroactively suspended to date of issuance and the license will stay suspended until the judgment bond is filed.

This subdivision applies only with respect to an unsatisfied judgment which is substantially related to the qualifications, functions, or duties of the license being applied for. This section shall not apply to an applicant for issuance, reinstatement, or reactivation where an unsatisfied judgment has been fully discharged in a completed bankruptcy proceeding.

(e) Notwithstanding any other provision of law, the licensee shall notify the registrar in writing of any entered and unsatisfied judgments within 90 days from the date of judgment.

If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended on the date that the registrar is informed, or is made aware of the unsatisfied judgment. The suspension shall not be removed until proof of satisfaction of judgment is submitted to the registrar.

This section applies only with respect to an unsatisfied judgment which is substantially related to the qualifications, functions, or duties of the license being applied for. In lieu of submitting proof of satisfaction of judgment in order to remove this suspension a licensee may submit proof that the unsatisfied judgment has been fully discharged in a completed bankruptcy proceeding.

If the licensee notifies the registrar in writing within 90 days of the date of judgment of any entered and unsatisfied judgments the board shall require as a condition to the continual maintenance of the license that the licensee file or have on file with the board a

judgment bond or other security sufficient to guarantee payment of an amount equal to the unsatisfied judgment or judgments. The licensee has 90 days from date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. The licensee may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied judgment, to satisfy a debt in lieu of filing the bond. Failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension, by operation of law, to any license that this section applies. If a licensee does not file the bond within 90 days from the board's date of notification and the license is suspended or if the bond is not maintained and the license is suspended or if the licensee does not abide by the accord and the license is suspended the license suspension can only be removed and the license reinstated when proof of a satisfaction of all debts is made.

Except as otherwise provided, the judgment bond shall remain in full force in the amount posted until the entire debt is satisfied. If at the time of renewal, the licensee submits proof of partial satisfaction of the outstanding final judgment, the board may authorize the judgment bond be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the judgment bond requirement may be removed.

(f) The board shall take the actions required by this section upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment.

(g) For the purposes of this section, the term "judgment" includes any final arbitration award.

(h) Notwithstanding any other provision of law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to subdivision (a) until such time as the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

SEC. 2. Section 7071.6 of the Business and Professions Code, as added by Section 2 of Chapter 1177 of the Statutes of 1989, is repealed.

CHAPTER 325

An act to amend Section 56728.7 of the Education Code, relating to special education.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, and 1994–95 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view of determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment which is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by a written individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team. The superintendent shall select, for this purpose, no more than 10 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (b). A maximum of 200 pupils shall participate in the statewide pilot program at any given time. Of the 200 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) The superintendent shall ensure that the local application describes the program and fiscal resources that it shall use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school

districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(c) Consistent with Section 56366 and other provisions of law, it is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot, a parent representative of the local community advisory committee, pursuant to Public Law 94-142, a

representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.

(B) Pupil achievement and classroom performance reports.

(C) Curriculum and class size.

(D) Adequate support services.

(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (e) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met in accordance with pupils' written individualized education program.

(d) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, and 1994–95 fiscal years, the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), in addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is placed by that district or county office in a public school program pursuant to this section, that is equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and 56775 in the 1991–92 fiscal year, excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the 1991–92 fiscal year. Each pupil's placement shall be changed, in accordance with this part, to a public

school special education program as described under this section no later than June 30, 1994.

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently determined by an individual education program team that a pupil's programmatic needs cannot be successfully met in the mainstream education program, another pupil may replace that pupil if the new pupil meets the conditions for participation specified in paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who meets the conditions specified in paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than September 30 following each fiscal year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of Public Instruction has been notified as specified in paragraph (4).

(6) The apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than September 30 following each fiscal year of the pilot project.

(e) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute

extended year entitlements pursuant to Section 56726.

(f) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(g) (1) The Superintendent of Public Instruction shall evaluate the pilot program or programs operated under this section pursuant to criteria developed in consultation with the participating school districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with the pupils' needs as specified in their individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nonhandicapped peers.

(C) Provided programs and services located in a public school to those pupils at a public cost no greater than that incurred in the nonpublic, nonsectarian school setting, including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs shall be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(2) The superintendent shall report the results of the evaluation to the Legislature no later than January 1, 1996.

(h) This section shall remain in effect only until September 1, 1996, and as of that date is repealed.

CHAPTER 326

An act to amend Section 19621 of the Business and Professions Code, relating to fairs.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 19621 of the Business and Professions Code is amended to read:

19621. (a) Not more than 5 percent of the Fair and Exposition Fund may be used during the 1991–92, 1992–93, 1993–94, or 1994–95 fiscal years to augment the budget of the Department of Food and Agriculture to provide services to fairs and to implement Sections 19627, 19627.1, and 19627.2.

(b) The Director of Food and Agriculture shall annually project the available revenues from this source and submit a recommendation to the Governor for the additional staff and contracts necessary to carry out those sections.

(c) This section 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, 1995, deletes or extends the date on which it becomes inoperative and is repealed.

CHAPTER 327

An act to amend Section 27791 of the Health and Safety Code, relating to commissaries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 27791 of the Health and Safety Code is amended to read:

27791. (a) All mobile food preparation units, stationary mobile food preparation units, and commissaries shall meet the applicable requirements in Article 6 (commencing with Section 27590), Article 7 (commencing with Section 27600), and Article 8 (commencing with Section 27620), unless specifically exempted from any of these provisions as provided in this article, and shall meet the provisions of Article 10 (commencing with Section 13600) of, and Article 10.1 (commencing with Section T17-13611) of Subchapter 2 of Chapter 5 of Part 1 of Title 17 of the California Code of Regulations, except that

a hose used for filling water tanks and used for cleaning the interior of a mobile food preparation unit from a commissary that services mobile food preparation units is not required to be kept at least four feet above the ground at all times if the hose is equipped with a quick disconnect device, retrofitted on the end of the hose so that it seals the opening when not in use. Hoses inside the mobile preparation unit and potable water tank connectors shall have matching connecting devices. Devices for external cleaning may not be used inside the mobile preparation unit for potable water purposes. Hoses and faucets equipped with quick connect and disconnect devices for these purposes shall be deemed to meet the requirements of Section T17-13613 of Title 17 of the California Code of Regulations. Mobile food preparation units and stationary mobile food preparation units shall be exempt from the requirements of Sections 27626 and 27628, and subdivision (b) of Section 27634.

(b) Each stationary mobile food preparation unit shall be certified pursuant to Article 10 (commencing with Section 13600) of Subchapter 2 of Chapter 5 of Part 1 of Title 17 of the California Code of Regulations before commencing operation each calendar year. The local enforcement agency shall address all applicable construction standards and submit proof of certification to the state department. Construction recertification within a calendar year shall not be required unless either of the following occurs:

(1) Where structural modifications are made.

(2) Where otherwise required by the state department.

The state department may issue an annual certificate of compliance for each certified vehicle, as required by regulation.

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 conserve water during a time of drought and to ensure added sanitary protection provided by retrofitting hoses used to fill commissary tanks, it is necessary that this act take effect immediately.

CHAPTER 328

An act to amend Section 10171.4 of, and to repeal Section 10171.6 of, the Business and Professions Code, relating to real estate.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991]

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

SECTION 1. Section 10171.4 of the Business and Professions Code is amended to read:

10171.4. Any licensee who applies for renewal of his or her license under Section 10461, or for reinstatement of his or her license under Section 10161.5 or 10463, shall, if the previous active license issued to him or her was issued four or more years prior to his or her application for renewal or reinstatement, present evidence of compliance with this article. If no such qualifying evidence is presented, the commissioner may issue a temporary license for a period of 90 days.

If the applicant presents evidence within 90 days of compliance with this article and is otherwise qualified, the commissioner shall issue a regular license without additional fee. It shall expire four years from the date which would otherwise have been applicable if a temporary license under this section had not been issued.

SEC. 2. Section 10171.6 of the Business and Professions Code is repealed.

CHAPTER 329

An act to amend Sections 40203.5, 40220, and 40230 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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. (a) The parking penalties for parking violations under this article shall be established by a court in the same amount as established by a court for bail, penalties, and assessments pursuant to Section 1269b of the Penal Code and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.

(b) Parking penalties under this article may be collected as civil penalties as provided in subdivision (d) of Section 40220.

SEC. 2. Section 40220 of the Vehicle Code is amended to read:

40220. Except as otherwise provided in Section 40222, the processing agency shall proceed under only one of the following options:

(a) Cancel the notice of delinquent parking violation and make an adequate record of the reasons for canceling the notice, in which case no further proceedings shall occur.

(b) File an itemization of unpaid parking penalties, including administrative fees, and the amount of the costs of the processing agency for costs of service, with the department for collection with the registration of the vehicle pursuant to Section 4760.

(c) File a criminal complaint with the court, together with supporting documents and other evidence, pursuant to Section

40230.

(d) If more than four hundred dollars ($400) in unpaid penalties and fees have been accrued by any person, bring a civil action against that person to collect the penalties and fees. If a judgment is rendered for the processing agency, that agency may contract with a collection agency licensed pursuant to Chapter 8 (commencing with Section 6850) of Division 3 of the Business and Professions Code to collect the amount of that judgment.

SEC. 3. Section 40230 of the Vehicle Code is amended to read:

40230. (a) A criminal complaint pursuant to Section 40206.5, 40209, 40210, 40215, or 40223, shall be filed with the court within 15 days after the defendant requests a court hearing or fails to appear.

(b) If the notice is prepared in the form approved by the Judicial Council, the processing agency may, in lieu of a complaint, file a copy of the notice of delinquent parking violation issued for service under Section 40206, and a copy of the affidavit of service or of the promise to appear. That notice shall serve as a complaint on which a warrant may issue.

(c) After the filing of a criminal complaint or notice of delinquent parking violation under this section, the court shall exercise all further jurisdiction over the violation. Any fines or forfeitures collected by the court, after filing of a complaint, shall be collected, deposited, and disbursed as are fines and forfeitures in other prosecutions of violations of this code.

CHAPTER 330

An act to amend Section 1367.18 of the Health and Safety Code, and to amend Sections 10123.7 and 11512.175 of the Insurance Code, relating to health.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991]

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

SECTION 1. Section 1367.18 of the Health and Safety Code is amended to read:

1367.18. Every health care service plan, except a specialized health care service plan, that covers hospital, medical, or surgical expenses on a group basis shall offer coverage for orthotic and prosthetic devices and services under the terms and conditions that may be agreed upon between the group subscriber and the plan. Every plan shall communicate the availability of that coverage to all group contractholders and to all prospective group contract holders with whom they are negotiating. Any coverage for prosthetic devices shall include original and replacement devices, as prescribed by a physician. Any coverage for orthotic devices shall provide for

coverage when the device, including original and replacement devices, is prescribed by a physician, or is ordered by a licensed health care provider acting within the scope of his or her license. Every plan shall have the right to conduct a utilization review to determine medical necessity prior to authorizing these services.

SEC. 2. Section 10123.7 of the Insurance Code is amended to read:

10123.7. On or after January 1, 1986, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for orthotic and prosthetic devices and services under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of that coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating. Any coverage for prosthetic devices shall include original and replacement devices, as prescribed by a physician. Any coverage for orthotic devices shall provide for coverage when the device, including original and replacement devices, is prescribed by a physician, or is ordered by a licensed health care provider acting within the scope of his or her license. Every insurer shall have the right to conduct a utilization review to determine medical necessity prior to authorizing these services.

SEC. 3. Section 11512.175 of the Insurance Code is amended to read:

11512.175. On or after January 1, 1986, every nonprofit hospital service plan that covers hospital, medical or surgical expenses on a group basis shall offer coverage for orthotic and prosthetic devices and services under such terms and conditions as may be agreed upon between the group subscriber and the plan. Every plan shall communicate the availability of that coverage to all group contractholders and to all prospective group contractholders with whom they are negotiating. Any coverage for prosthetic devices shall include original and replacement devices, as prescribed by a physician. Any coverage for orthotic devices shall provide for coverage when the device, including original and replacement devices, is prescribed by a physician, or is ordered by a licensed health care provider acting within the scope of his or her license. Every plan shall have the right to conduct a utilization review to determine medical necessity prior to authorizing these services.

CHAPTER 331

An act to amend Sections 27361, 29550, and 76000 of, to amend the heading of Article 12 (commencing with Section 29550) of Chapter 2 of Division 3 of Title 3 of, and to add Section 29550.1 to, the Government Code, to amend Section 30462 of the Revenue and Taxation Code, and to add and repeal Section 42007.1 of the Vehicle Code, relating to trial court funding, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The State of California faces an unprecedented fiscal crisis, and the solution to that crisis requires the participation of every branch of government.

(b) The state, through enactment of Chapter 90, Statutes of 1991, committed to increase the state's share of trial court funding to 50 percent in fiscal year 1991–1992 and to 70 percent by fiscal year 1995–96.

(c) The trial courts of California, through sacrifices enacted in Chapter 90, Statutes of 1991, have committed to a fair share of the burden of solving the state's unprecedented fiscal crisis.

(d) It is therefore incumbent on other branches of government to assist in the adequate funding of the state's trial courts.

SEC. 2. Section 27361 of the Government Code is amended to read:

27361. The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is as follows: four dollars ($4) for recording the first page and three dollars ($3) for each additional page or fraction of a page. One dollar ($1) of each three dollar ($3) fee for each additional page shall be transmitted by the county treasurer monthly to the Controller and deposited in the General Fund. If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence the recorder shall charge one dollar ($1) additional for each page on which such printing appears excepting, however, that such additional charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms.

One dollar ($1) for recording the first page and one dollar ($1) for each additional page or fraction of a page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each

county's system of recorded documents.

SEC. 3. The heading of Article 12 (commencing with Section 29550) of Chapter 2 of Division 3 of Title 3 of the Government Code is amended to read:

Article 12. Criminal Justice Administrative Fees

SEC. 4. Section 29550 of the Government Code is amended to read:

29550. (a) 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.

(b) Any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administration fee for administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest. The fee which the county is entitled to recover pursuant to this subdivision 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 judgment of conviction may contain an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but the order shall not be enforceable by contempt. The court may, as a condition of probation, order the convicted person to reimburse the county for the criminal justice administration fee.

(c) An administrative screening fee of twenty-five dollars ($25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense related to the arrest. A citation processing fee in the amount of ten dollars ($10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense related to the criminal offense cited in the notice to appear. However, the court may determine a lesser fee than otherwise provided in this subdivision upon a showing that the defendant is unable to pay the full amount. All fees collected pursuant to this subdivision shall be transmitted by the county

treasurer monthly to the State Controller for deposit in the General Fund. This subdivision applies only to convictions occurring on or after the effective date of the act adding this subdivision and prior to June 30, 1996.

SEC. 5. Section 29550.1 is added to the Government Code, to read:

29550.1. Any city, special district, school district, community college district, college, university, or other local arresting agency whose officer or agent arrests a person is entitled to recover any criminal justice administration fee imposed by a county from the arrested person if the person is convicted of any criminal offense related to the arrest. A judgment of conviction may contain an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but the order shall not be enforceable by contempt. The court may, as a condition of probation, order the convicted person to reimburse the city, special district, school district, community college district, college, university, or other local arresting agency for the criminal justice administration fee.

SEC. 6. Section 76000 of the Government Code, as added by Assembly Bill 544 of the 1991–92 Regular Session, is amended to read:

76000. (a) In each county there shall be levied an additional penalty of seven dollars ($7) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the amounts 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 parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. The county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50) 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 county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process 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 added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) Notwithstanding the allocation of added penalties specified in subdivision (b), the county treasurer shall transfer one dollar ($1) of every penalty collected pursuant to this section to the Controller for deposit in the General Fund.

SEC. 7. Section 30462 of the Revenue and Taxation Code is amended to read:

30462. All money deposited in the Cigarette Tax Fund under this part is hereby appropriated, subject to the provisions of any budget bill heretofore or hereafter enacted and Section 11006 of the Government Code, and shall, upon order of the State Controller, be drawn therefrom and allocated for the following purposes:

(a) To pay the refunds authorized by this part.

(b) To the Controller an amount equal to 30 percent of the money in the fund which is derived from taxes imposed on and after October 1, 1967, less 30 percent of the cost of administering this part, such money to be disbursed by the Controller on or before December 15, 1967, and on the 15th day of each month thereafter to each city and city and county in this state in the following manner:

(1) The money to be allocated pursuant to this subdivision shall first be divided into two separate accounts, one for the state and one for the cities and cities and counties of this state. In order to determine the amount of money in each account, the Controller shall first determine the amount due each city and county and city in this state in the proportion that sales tax revenues transmitted pursuant to Part 1.5 (commencing with Section 7200) of this division to each city and city and county respectively bear to the total of that revenue in the state. In making these determinations, the Controller shall not consider any revenues derived from that portion of the taxes

imposed by the county at a rate in excess of 1 percent pursuant to Part 1.5 (commencing with Section 7200) of this division. The amount due each city and county shall be allocated in accordance with this formula and the amount due each city shall be allocated pursuant to paragraph (3) or paragraph (4) of this subdivision. The moneys in the account for the state that are to be allocated pursuant to this subdivision shall be deposited in the General Fund.

(2) Notwithstanding paragraph (1), prior to any allocation pursuant to this subdivision for each city or city and county, 47 percent of the money available in the account for each city and city and county shall be transferred to the General Fund. This paragraph shall not be applicable on and after July 1, 1996.

(3) Upon the application of any city for an allocation pursuant to this paragraph, the Controller shall determine the amount of revenue derived from the city's selective local tax on, or with respect to, the sale, distribution, use, consumption, or holding of cigarettes or any other tobacco product during the 1966–1967 fiscal year, or which would have been derived from such tax if the rate in effect on August 1, 1967, had been in effect throughout such fiscal year. This amount shall be adjusted, beginning on July 1, 1969, by the percentage by which the cigarette tax revenues have increased or decreased. For the 1969–1970 fiscal year the percentage shall be derived by comparing the revenues deposited in the Cigarette Tax Fund during the period January 1 through June 30, 1969, with those deposited during the period January 1 through June 30, 1968. For the 1970–1971 fiscal year and each fiscal year thereafter, the percentage shall be derived by comparing revenues deposited in the Cigarette Tax Fund during the preceding fiscal year with those deposited during the entire 1968–1969 fiscal year. The amount computed after applying the percentage factor shall then be reduced by deducting the cost to the city of administering and collecting any such tax for the 1966–1967 fiscal year. If such amount, when divided by 12, is more than the amount which would be disbursed to the city at the time of the next allocation pursuant to paragraph (4) of this subdivision, an amount equal to the amount which such city would have netted from its own tax shall be allocated to such city each month pursuant to this paragraph from the account established for cities in paragraph (1), and no allocation shall be made to such city pursuant to paragraph (4) until such time as the city rescinds its right to receive an allocation under this paragraph. A city which has rescinded such right may not, thereafter, file another application for an allocation pursuant to this paragraph. No city shall be eligible for a subvention pursuant to this paragraph unless, on August 1, 1967, it in fact imposed a selective local tax on, or with respect to, the sale, distribution, use, consumption or holding of cigarettes or any other tobacco product.

(4) (A) After making any allocations required by paragraph (3) of this subdivision, 50 percent of the revenue remaining in the account for the cities of this state shall be allocated to the remaining

cities in the proportion that sales tax revenues transmitted pursuant to Part 1.5 (commencing with Section 7200) of this division to each remaining city bears to the total of such revenue transmitted to all remaining cities.

(B) Fifty percent thereof shall be paid to the cities receiving an allocation under this paragraph in the proportion that the population of each such city bears to the total population of all cities in this state receiving an allocation under this paragraph, as determined by the Controller. For the purpose of this subdivision the population of each city is that determined in the manner specified in Section 11005 of this code.

(c) The balance remaining in the fund shall be transferred to the General Fund of this state.

The allocation provided for in subdivision (b) shall not be made to any county, or city which, after October 1, 1967, imposes a selective local tax on, or with respect to, the sale, distribution, use, consumption, or holding of cigarettes or any other tobacco product.

Moneys disbursed pursuant to subdivision (b) of this section may be used for county, city and county, or city purposes, and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

SEC. 8. Section 42007.1 is added to the Vehicle Code to read:

42007.1. Notwithstanding Section 42007, on and after the effective date of this section to and including December 31, 1996:

(a) The fee collected by the clerk pursuant to subdivision (a) of Section 42007 shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule plus twenty-four dollars ($24).

(b) The fee revenues shall be allocated as follows rather than as specified in subdivision (b) of Section 42007:

(1) Twenty-four dollars ($24) of each fee collected shall be deposited in the General Fund.

(2) Seventy-seven percent of the remaining amount shall be deposited in the General Fund, except that 14 percent of the revenues allocated pursuant to this paragraph from fees received on or after January 1, 1992, shall be deposited in the State Courthouse Construction Fund.

(3) The remaining amount collected under subdivision (a) of Section 42007 shall be allocated as provided in paragraph (2) of subdivision (b) of Section 42007.

This section shall remain effect until January 1, 1997, and on that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date:

SEC. 9. The sum of two hundred five million three hundred eighty-three thousand dollars ($205,383,000) is hereby appropriated from the General Fund for local assistance for State Block Grants for Trial Court Funding in augmentation of Item 0450-101-001 of Section 2.00 of the Budget Act of 1991.

SEC. 10. 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.

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 help resolve an unprecedented fiscal crisis by providing for state funding of municipal, superior, and justice courts as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 332

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

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. The sum of seven hundred thirty-seven thousand seven hundred sixty-seven dollars and forty-nine cents ($737,767.49) is hereby appropriated to the Secretary of the State Board of Control to pay claims accepted by the State Board of Control in accordance with the following schedule:

Total for Fund: Bank and Corporation Tax Fund	$35,403.54
Total for Fund: Behavioral Science Examiners Fund	$50,548.50
Total for Fund: Federal Trust Fund	$242.49
Total for Fund: Fish and Game Preservation Fund	$264.16
Total for Fund: General Fund	$51,761.11
Total for Fund: Health Care Deposit Fund	$1,062.62
Total for Fund: Item 0250-001-001(C), Budget Act 1991	$41.93
Total for Fund: Item 0820-001-001(D), Budget Act 1991	$3,227.34
Total for Fund: Item 0820-001-001(G), Budget Act 1991	$5,352.15
Total for Fund: Item 0860-001-001(B), Budget Act 1991	$757.72
Total for Fund: Item 0890-001-001(A), Budget Act 1991	$622.56

Total for Fund: Item 0950-001-001(B), Budget Act 1991	$196.64
Total for Fund: Item 1370-044-757, Budget Act 1991	$591.98
Total for Fund: Item 1655-090-702(B), Budget Act 1991	$1,998.36
Total for Fund: Item 1730-001-001(B), Budget Act 1991	$7.18
Total for Fund: Item 1760-001-666(A), Budget Act 1991	$53.38
Total for Fund: Item 1760-001-666(B), Budget Act 1991	$1,886.83
Total for Fund: Item 1970-011-001(A), Budget Act 1991	$388.49
Total for Fund: Item 2240-001-001(A), Budget Act 1991	$18,510.23
Total for Fund: Item 2660-001-042(B), Budget Act 1991	$66,017.16
Total for Fund: Item 2720-001-044(A), Budget Act 1991	$247.09
Total for Fund: Item 2720-001-044(B), Budget Act 1991	$260.00
Total for Fund: Item 2720-001-044(D), Budget Act 1991	$6,677.07
Total for Fund: Item 2740-001-044(A), Budget Act 1991	$44,620.71
Total for Fund: Item 3340-001-001(A), Budget Act 1991	$405.00
Total for Fund: Item 3340-001-001(B), Budget Act 1991	$41.39
Total for Fund: Item 3400-001-044(A), Budget Act 1991	$4,384.38
Total for Fund: Item 3480-001-001(A), Budget Act 1991	$6,282.32
Total for Fund: Item 3540-001-001(A), Budget Act 1991	$5,262.62
Total for Fund: Item 3540-001-001(B), Budget Act 1991	$2,850.30
Total for Fund: Item 3600-001-200(B), Budget Act 1991	$33,099.24
Total for Fund: Item 3790-001-001(B), Budget Act 1991	$23,296.20
Total for Fund: Item 3790-301-742(8), Chapter 313, Statutes 1988	$6,000.00
Total for Fund: Item 3940-001-001(A), Budget Act 1991	$994.85
Total for Fund: Item 4130-001-632, Budget Act 1991	$77.66
Total for Fund: Item 4140-001-001(A), Budget Act 1991	$49.95

Total for Fund: Item 4140-001-001(B), Budget Act 1991	$382.92
Total for Fund: Item 4260-001-001(1), Budget Act 1991	$1,062.50
Total for Fund: Item 4260-001-001(2), Budget Act 1991	$37,115.37
Total for Fund: Item 4300-003-001(A), Budget Act 1991	$16,311.04
Total for Fund: Item 4440-001-001(A), Budget Act 1991	$11.21
Total for Fund: Item 4440-001-001(B), Budget Act 1991	$384.60
Total for Fund: Item 4440-001-001(C), Budget Act 1991	$811.96
Total for Fund: Item 4440-011-001(A), Budget Act 1991	$4,705.80
Total for Fund: Item 4440-011-001(B), Budget Act 1991	$10,760.85
Total for Fund: Item 5100-001-870(B), Budget Act 1991	$3,416.53
Total for Fund: Item 5160-001-001(A), Budget Act 1991	$3,927.33
Total for Fund: Item 5180-001-001(B), Budget Act 1991	$478.86
Total for Fund: Item 5180-001-001(D), Budget Act 1991	$1,491.96
Total for Fund: Item 5240-001-001(A), Budget Act 1991	$90,333.22
Total for Fund: Item 5240-001-001(B), Budget Act 1991	$569.80
Total for Fund: Item 5240-001-001(C), Budget Act 1991	$80.00
Total for Fund: Item 5240-101-001(B), Budget Act 1991	$2,792.40
Total for Fund: Item 5250-851-682, Chapter 958, Statutes 1983	$2,792.50
Total for Fund: Item 5420-501-678, Chapter 1549, Statutes 1982	$1,800.00
Total for Fund: Item 5450-001-001, Budget Act 1991	$566.36
Total for Fund: Item 5460-001-001(B), Budget Act 1991	$39,276.08
Total for Fund: Item 5460-001-001(C), Budget Act 1991	$690.84
Total for Fund: Item 5460-001-001(D), Budget Act 1991	$6,719.63
Total for Fund: Item 6110-001-001(B), Budget Act 1991	$447.38
Total for Fund: Item 6360-001-407(A), Budget Act 1991	$2,286.76

Total for Fund: Item 6610-001-001(A), Budget Act 1991	$2,142.08
Total for Fund: Item 6610-001-001(E), Budget Act 1991	$5,865.38
Total for Fund: Item 6870-101-001(E), Budget Act 1991	$5,255.06
Total for Fund: Item 6870-513-001, Chapter 973, Statutes 1988	$4,417.50
Total for Fund: Item 8100-101-425(A), Chapter 93, Statutes 1989	$1,208.00
Total for Fund: Item 8350-001-001(C), Budget Act 1991	$389.21
Total for Fund: Item 8350-001-001(E), Budget Act 1991	$9,585.25
Total for Fund: Item 8350-001-001(I), Budget Act 1991	$5,083.43
Total for Fund: Item 8560-001-510(B), Budget Act 1991	$98.00
Total for Fund: Item 8570-001-001(A), Budget Act 1991	$800.00
Total for Fund: Item 8570-001-001(B), Budget Act 1991	$91.97
Total for Fund: Item 8570-001-001(D), Budget Act 1991	$531.42
Total for Fund: Item 8820-001-001(B), Budget Act 1991	$3,045.36
Total for Fund: Item 8940-001-001(C), Budget Act 1991	$227.70
Total for Fund: Local Agency Investment Fund	$18,253.46
Total for Fund: Personal Income Tax Fund	$1,098.87
Total for Fund: Retail Sales Tax Fund	$1,470.62
Total for Fund: Service Revolving Fund	$11,279.00
Total for Fund: State Compensation Insurance Fund	$613.76
Total for Fund: State Lottery Fund	$3,055.19
Total for Fund: Tax Relief and Refund Account	$29,689.53
Total for Fund: Teachers' Retirement Fund	$4,487.40
Total for Fund: Transportation Fund, Motor Vehicle Account	$58.00
Total for Fund: Transportation Fund, Motor Vehicle Fuel Account	$6,258.24
Total for Fund: Transportation Fund, State Highway Account	$2,276.00
Total for Fund: Unemployment Administration Fund	$638.39
Total for Fund: Unemployment Compensation Disability Fund	$1,968.00
Total for Fund: Unemployment Fund	$15,181.62

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 claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 333

An act to amend Section 17789 of, and to add Section 17789.2 to, the Education Code, and to amend and repeal Section 97 of the Revenue and Taxation Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 17789 of the Education Code is amended to read:

17789. (a) The board shall lease portable classrooms to qualifying school districts and county superintendents of schools for not less than one dollar ($1) per year, nor more than four thousand dollars ($4,000) per year, for each portable classroom, which amount shall be annually increased according to the adjustment for inflation set forth in the statewide cost index for classroom construction, as determined by the board at its January meeting.

(b) The board shall require each lessee to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

SEC. 2. Section 17789.2 is added to the Education Code, to read:

17789.2. Any portable classroom that is leased from the board by a school district or county superintendent of schools under this chapter on July 1, 1991, may be purchased by that district or county superintendent of schools for an amount equal to the purchase price paid by the board, including the purchase costs specified in subdivision (c) of Section 17788.7, less the amount of any rent already paid to the board by the district or county superintendent of schools for that classroom. Payment for purchases made pursuant to this section shall be in equal annual installments for an agreed-upon term not to exceed nine years.

SEC. 3. Section 97 of the Revenue and Taxation Code, as amended by Chapter 466 of the Statutes of 1990, 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 Office of Management and Budget 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 subdivision.

(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) If so directed by the board of supervisors, the auditor shall 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 Office of Management and Budget 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 shall, commencing in fiscal year 1990–91, if so directed by the board of supervisors, submit an invoice to these jurisdictions for services rendered in the prior fiscal year.

(g) Notwithstanding subdivision (f), no invoice as described in that subdivision shall be submitted to any school district, community college district, or county office of education, nor shall any of those entities be required to pay any invoice, for property tax administrative costs for services rendered in the 1990–91 fiscal year, or in any subsequent fiscal year. This subdivision shall not be construed to prevent the auditor of any county from imposing and collecting from school districts, community college districts, and county offices of education, in accordance with subdivision (f), invoices for property tax administrative costs for services rendered to those entities in the 1989–90 fiscal year.

SEC. 4. Section 97 of the Revenue and Taxation Code, as amended by Chapter 75 of the Statutes of 1991, is repealed.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to meet the critical demand for portable classrooms for the 1991–92 school year, and to preserve local school funds for that fiscal year, it is necessary that this act take effect immediately.

CHAPTER 334

An act to amend Section 17091 of the Government Code, relating to state warrants.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 17091 of the Government Code is amended to read:

17091. Application for a duplicate warrant shall be made by filing with the Controller:

(a) An affidavit setting forth the fact of its loss or destruction, giving the number, date, amount, and name of the payee, together with all material facts relative to the loss or destruction.

(b) An agreement to indemnify and hold harmless the state, its officers and employees, from any loss resulting from the issuance of the duplicate warrant.

No indemnity agreement shall be required: (1) when the payee is the United States Government, a state of the United States, any agency, instrumentality or officer of the United States Government or of a state, or any county, city, city and county, town, district, or other political subdivision of a state, or any officer thereof; or (2) when the owner or custodian is the State of California or any agency or officer thereof.

The Controller need not require an indemnity agreement if the Controller determines that it is in the best interest of the state and that the state is adequately protected without an agreement.

CHAPTER 335

An act to amend Sections 94304, 94305.5, and 94337 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The Delano Joint Union High School District is located primarily within Kern County, although a portion of the district, representing approximately 7 percent of the registered voters of the district, is located in Tulare County.

(b) On December 11, 1990, the governing board of the Delano Joint Union High School District adopted a resolution to consolidate the governing board election for that district with the general election. Pursuant to that resolution, the district election of November 5, 1991, is to be consolidated with the November 3, 1992, general election.

(c) The governing board of the Delano Joint Union High School District submitted that resolution to the Board of Supervisors of Kern County, that board of supervisors approved the resolution, and the registered voters of the school district were notified accordingly, in compliance with the requirements set forth in Section 5000.5 of the Education Code. However, through inadvertence, the resolution was not submitted for approval to the Board of Supervisors of Tulare County, and insufficient time now remains, prior to the originally scheduled November 5, 1991, governing board election, for that approval process to occur.

(d) Under the circumstances set forth above, the waiver provided under Section 2 of this act is necessary in order to further the objectives of Section 5000.5 of the Education Code, namely, to facilitate the consolidation of elections in order to increase voter participation and to reduce local election costs. Moreover, the Tulare County Board of Supervisors is aware of the circumstances set forth above, and consents to the proposal to waive the requirement that the resolution to consolidate elections as described above be submitted for its approval.

SEC. 2. Notwithstanding Section 5000.5 of the Education Code, the resolution, as described in Section 1 of this act, that was adopted by the governing board of Delano Joint Union High School District to postpone the governing board election of November 5, 1991, for that district for the purpose of consolidation with the November 3, 1992, general election, and to provide that the governing board election for that district regularly occur thereafter on the same day as the general election, shall not be required to be submitted to, or

approved by, the Board of Supervisors of Tulare County as a condition of that consolidation.

SEC. 3. Section 94304 of the Education Code is amended to read:

94304. (a) There is hereby established in state government a Council for Private Postsecondary and Vocational Education. The council shall have the responsibility for approving and regulating private postsecondary educational institutions and for developing state policies for private postsecondary and vocational education in California. The council shall represent the private postsecondary educational institutions in all state level planning and policy discussions about postsecondary and vocational education, and shall have as its objective the development of a strong, vigorous, and widely respected sector of private postsecondary and vocational education.

(b) The council shall be composed of 15 voting members, including the following representatives:

(1) Two representatives from private degree granting institutions approved under Section 94310.

(2) Two representatives from vocational institutions approved under Section 94311.

(3) Two representatives from accredited private postsecondary institutions operating in California. One representative shall be from an out-of-state accredited degree-granting postsecondary educational institution approved under Section 94310, and one representative shall be from an accredited vocational institution approved under Section 94311.

(4) A representative of the California Student Aid Commission, nominated by the executive director of the commission, and appointed by the Governor.

(5) The Superintendent of Public Instruction, or his or her designee.

(6) The Secretary of State and Consumer Services, or his or her designee.

(7) Six members of the general public.

(8) The appointment process for the council shall be as follows:

(A) The Governor shall appoint one representative from an institution approved under Section 94310, one representative from a vocational institution approved under Section 94311, one representative from an accredited vocational school, and three members from the general public.

(B) The Senate Rules Committee shall appoint one representative from an institution approved under Section 94310, one representative from an out-of-state accredited degree granting college or university operating in California, and one member of the general public.

(C) The Speaker of the Assembly shall appoint one representative from a vocational institution approved under Section 94311, and two members of the general public.

(D) The institutional representatives shall be appointed from a

list or lists of persons nominated by private postsecondary or vocational educational institutions.

(9) In addition, the following shall serve as nonvoting ex officio members of the council:

(A) The Attorney General of the State of California, or his or her designee.

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

(C) The Director of the California Postsecondary Education Commission, or his or her designee.

(D) The Director of the Youth, Adult, and Alternative Educational Services Division of the State Department of Education, or his or her designee.

(E) The Chancellor of the California Community Colleges, or his or her designee.

(10) The members of the council designated in paragraphs (5) and (6) shall serve at the pleasure of their respective appointing authorities. All other voting members of the council shall serve a four-year term, and no members shall serve more than two full terms.

(11) Any person appointed to the council as a representative from an institution described in paragraphs (1) to (3), inclusive, who no longer represents the institutions that made him or her eligible for appointment shall automatically and immediately forfeit his or her membership on the council, thereby creating an immediate vacancy. Any person appointed to the council as a member of the general public pursuant to paragraph (7) who no longer qualifies as a member of the general public shall automatically and immediately forfeit his or her membership on the council, thereby creating an immediate vacancy.

(12) No person who is employed by an institution of public or private postsecondary or vocational education, or who is employed by a private organization owning an interest in a private postsecondary or vocational institution, shall be appointed to, or serve on, the council as a member of the general public.

(13) It is the intent of the Legislature that the members of the general public appointed to the council have a strong interest in developing private postsecondary and vocational education, and include representation from businesses that employ persons in positions requiring academic, vocational, or technical education.

(c) It is the intent of the Legislature that the council shall be broadly and equitably representative of the general public and that it include adequate representation on the basis of gender and on the basis of the significant racial, ethnic, and economic groups in the state. No person appointed pursuant to this section shall, with respect to any matter before the council, vote for or on behalf of, or in any way exercise the vote of, any other member of the council.

(d) The council shall meet as often as it deems necessary to carry out its duties and responsibilities. Any member of the council who in

any calendar year misses more than one-third of the meetings of the full council forfeits his or her office, thereby creating a vacancy.

(e) The council shall select a chair from among the members representing the general public. The chair shall hold office for a term of two years.

(f) The council may appoint any subcommittees or advisory committees it deems necessary to advise the council on matters of educational policy. The council shall appoint and may remove a director in the manner prescribed in this section. The director shall appoint persons to any civil service staff positions authorized by the council. The staffing shall include individuals with responsibilities for each of the following areas:

(1) The approval of vocational institutions.

(2) The approval of degree granting institutions.

(3) The approval of courses offered to veterans by vocational and degree granting institutions. For the purposes of implementing the requirements of this paragraph, the council is hereby designated as the state agency responsible for the administration of veteran educational benefit programs.

(4) Institutional relations to develop strong relationships with agencies such as the State Department of Education, the California Postsecondary Education Commission, the Student Aid Commission, the Department of Consumer Affairs, and nongovernmental accrediting associations.

(5) Legislative and public affairs.

(6) Staff administrative services.

(g) It is the intent of the Legislature that the council's approval and regulating responsibilities be funded solely through approval fees and federal funding provided to implement the approval process for courses offered to veterans by vocational and degree granting institutions. All fees derived from postsecondary degree granting institutions and their veterans' educational benefits shall be deposited in a special degree granting institution account, which is hereby created, in the Private Postsecondary and Vocational Education Administration Fund. All fees derived from vocational education institutions and their veterans' educational benefits shall be deposited into a special vocational education account, which is hereby created, in the Private Postsecondary and Vocational Education Administration Fund. The council shall establish an accounting procedure to allocate the time required to approve all degree granting institutions and all vocational education institutions and shall charge these accounts accordingly. Any general administrative expenses shall be allocated on a pro rata basis.

(h) The council shall prescribe rules for the transaction of its own affairs, subject to all the following requirements and limitations:

(1) The votes of all representatives shall be recorded.

(2) Effective action shall require the affirmative vote of a majority of all the duly appointed members of the council, not including vacant council seats.

(3) The affirmative votes of two-thirds of all the duly appointed members of the council, not including vacant council seats, shall be necessary for the appointment or removal of the director.

(i) There is hereby established an advisory committee to the council and the director, consisting of representatives of the Board of Cosmetology, the Board of Barber Examiners, the Board of Vocational Nurse and Psychiatric Technician Examiners, the Board of Behavioral Science Examiners, the California Committee of Bar Examiners, the Commissioner of Real Estate, and other state agencies responsible for monitoring private postsecondary institutions. Meeting agenda items and associated documents of the council shall be provided to the advisory committee in a timely manner.

SEC. 4. Section 94305.5 of the Education Code is amended to read:

94305.5. Each member of the council shall receive a stipend of one hundred dollars ($100) for each day he or she attends any meeting of the council, or any meeting of any committee or subcommittee of the council of which he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the council. A council member may elect not to receive all or any portion of this stipend. In addition, each member of the council shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties. The payments in each instance shall be made only from the fund from which the expenses of the council are paid and shall be subject to the availability of funds. In no instance shall the licensing fees of schools or colleges be raised for the sole purpose of paying the stipends of the council members.

SEC. 5. Section 94337 of the Education Code is amended to read:

94337. (a) The council may adopt and enforce regulations as may be necessary, appropriate, or useful to interpret and implement this chapter. Pending the adoption of formal regulations, the council may adopt emergency regulations which shall become effective immediately, and which shall be superseded upon the adoption of formal regulations. The adoption of the emergency regulations shall be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and the emergency regulations shall only be effective for 180 days.

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

SEC. 6. Due to the unique circumstances specified in Section 1 of this act concerning the Delano Joint 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.

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 Delano Joint Union High School District may consolidate its district election of November 5, 1991, with the November 3, 1992, general election, it is necessary that this act take effect prior to November 5, 1991; in order to revise various statutes affecting the membership and stipends paid to members of the Council for Private Postsecondary and Vocational Education; and in order to authorize the council to adopt certain emergency regulations as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 336

An act to amend Section 868.5 of the Penal Code, relating to criminal procedure.

[Approved by Governor August 5, 1991. Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness in a case involving a violation of Section 187, 203, 205, 207, 211, 220, 240, 242, 243.4, 245, 261, 262, 273a, 273d, 273.5, 273.6, 277, 285, 286, 288, 288a, 288.5, 289, 647.6, or former Section 647a, or a violation of subdivision (1) of Section 314, shall be entitled, for support, to the attendance of up to two persons of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.

(b) If the person or persons so chosen are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content

of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the witness in any way. Nothing in this section shall preclude a court from exercising its discretion to remove a person from the courtroom whom it believes is prompting, swaying, or influencing the witness.

(c) The testimony of the person or persons so chosen who are also prosecuting witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because it has been given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

CHAPTER 337

An act to add Section 7164 to the Business and Professions Code, relating to contractors.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991.]

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

SECTION 1. Section 7164 is added to the Business and Professions Code, to read:

7164. (a) Notwithstanding Section 7044, every contract and any changes in a contract, between an owner and a contractor, for the construction of a single-family dwelling to be retained by the owner for at least one year shall be evidenced in writing signed by both parties.

(b) The writing shall contain the following:

(1) The name, address, and license number of the contractor.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A legal description of the location where the work will be done.

(4) The language of the notice required pursuant to Section 7018.5.

The writing may also contain other matters agreed to by the parties to the contract. The writing shall be legible and shall clearly describe any other document which is to be incorporated into the contract. Prior to commencement of any work, the owner shall be

furnished a copy of the written agreement, signed by the contractor. The provisions of this section are not exclusive and do not relieve the contractor from compliance with all other applicable provisions of law.

(c) Every contract subject to the provisions of this section shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point bold type or in all capital letters, stating that the owner has the right to require the contractor to have a performance and payment bond and that the expense of the bond may be borne by the owner.

CHAPTER 338

An act to amend Section 3541 of the Government Code, relating to the Public Employment Relations Board.

[Approved by Governor August 5, 1991 Filed with Secretary of State August 5, 1991]

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

SECTION 1. Section 3541 of the Government Code is amended to read:

3541. (a) There is in state government the Public Employment Relations Board which shall be independent of any state agency and shall consist of five members. The members of the board shall be appointed by the Governor by and with the advice and consent of the Senate. One of the original members shall be chosen for a term of one year, one for a term of three years, and one for a term of five years. The first term for the two new members of the board resulting from the expansion of the board to five members shall be reduced by the Governor as necessary so that the term of only one member of the board shall expire in any given year. Thereafter terms shall be for a period of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Members of the board shall be eligible for reappointment. The Governor shall select one member to serve as chairperson. A member of the board may be removed by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the commission, and three members of the board shall at all times constitute a quorum.

(c) The board may delegate its powers to any group of three or more board members. Nothing shall preclude any board member from participating in any case pending before the board.

(d) Members of the board shall hold no other public office in the

state, and shall not receive any other compensation for services rendered.

(e) Each member of the board shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. In addition to his or her salary, each member of the board shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her duties, subject to the rules of the State Board of Control relative to the payment of such expenses to state officers generally.

(f) The board shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint such other persons as may, from time to time, be deemed necessary for the performance of the board's administrative functions, prescribe their duties, fix their compensation, and provide for reimbursement of their expenses in the amounts made available therefor by appropriation. The executive director shall be a person familiar with employer-employee relations. The executive director shall be subject to removal at the pleasure of the board. The Governor shall appoint a general counsel, upon the recommendation of the board, to assist the board in the performance of its functions under this chapter. The general counsel shall serve at the pleasure of the board.

(g) The executive director and general counsel serving the board on December 31, 1977, shall become employees of the Public Employment Relations Board and shall continue to serve at the discretion of the board. A person so employed may, independently of the Attorney General, represent the board in any litigation or other matter pending in a court of law to which the board is a party or in which it is otherwise interested.

(h) The Governor shall appoint one legal adviser for each member of the board upon the recommendation of that board member. Each appointee shall serve at the pleasure of the recommending board member and shall receive a salary as shall be fixed by the board with the approval of the Department of Personnel Administration.

(i) Attorneys serving the board on May 19, 1978, shall not be appointed as legal advisers to board members pursuant to subdivision (h) until such time as they have attained permanent civil service status.

(j) When the positions exempt from civil service which are authorized by this act are created, the Department of Finance shall delete the corresponding civil service positions in the board's 1978–79 budget.

(k) Notwithstanding subdivision (a), the member of the board appointed by the Governor for the term beginning on January 1, 1991, shall not be subject to the advice and consent of the Senate.