mWorkstation – Product Overview

Feature Summaries

Specification/Feature	mTablet
Processor	Freescale i.MX6 Dual Core ARM Cortex A9 1GHz
Memory	1G DDR3 800MHz RAM
Storage	4G Fixed NAND Flash Internal 8G Removable microSD Standard
Operating System	Microsoft Windows Embedded Compact 7 (EC7)
Display	10.1" WVGA (1024x600) TFT LCD
Touchscreen	10.1" Hardened Projected Capacitive Sensor
Screen Orientation	Portrait or Landscape, Auto Rotating
Magnetic Card Reader	Modular Integrated 3-Track MCR Capable of Hardware Encryption at the Swipe
Network	802.11 a/b/g/n Dual Band Radio (WPA, WPA2, TKIP, AES Support) Bluetooth 2.1
Battery	Integrated Lithium Ion Battery 21.8Wh Provides 6 Hours of Operation in Typical Usage
USB	1 Below Modular MCR Cover for Future Accessories 1 USB "On the Go" Port
Serial Ports	1 Reserved for MCR
Operating Temperature Range	-10 to 60C (14-140F) Normal Operation 0 to 45C (32 to 113F) when charging battery
Enclosure	Magnesium Alloy, PC-ABD and Nylon Materials. Spill & Drop Resistant Enclosure
Certifications	FCC Class A, UL, CE, TUV, RoHS, China RoHS
Specification/Feature	**mStation**
USB 2.0	4 Standard USB 2.0 1 MICROS 12V Powered USB
Serial Ports	Com 1 DB9 RS232 – 5/9/12V Selectable Power Com 2 DB9 RS232 – 12V Power Com 5 RJ45 RS232 MICROS IDN Port RJ45 RS422/RS232
Cash Drawers	2 MICROS "Series 2" Cash Drawer Ports
Customer Display	1 MICROS Customer Display Port
Power Output	1 12V Output
Network	10/100/1G RJ45 Ethernet – only when mTablet Installed
Power Supply	Internal Universal 100W Power Supply
Battery	Optional Internal High Capacity Battery

mWorkstation – Product Overview

mStation/WS5A/PCWS2015/KW270 Differences Summary

The MICROS mTablet and mStation provide a high degree of connectivity and flexibility and are ideal for many use cases, however, care should be taken to ensure customers are provided with the best device for their particular needs and investment protection. The chart below highlights some key distinctions in the current MICROS workstation line

Specification/Feature/Functionality	mStation	WS5A	PCWS2015	KW270
Processor	Freescale i.MX6	Intel Atom N450	Intel Celeron or Core i5	Freescale i.MX27
Architecture	ARM	X86	X86	ARM
CPU Frequency	1GHz	1.6GHz	1.86 or 2.4GHz	800MHz
Processor Power	Mid	High	Very High	Low
RAM	DDR3 800	DDR2 667	DDR3 1066	DDR 333
USB 2.0 Ports	6 Total • 4 on I/O Panel • 1 MICROS 12V Powered USB • 1 Below MCR Cap for Future Use	8 Total • 4 on I/O Panel • 1 Internal for Flash Drive • 2 Internal for Options • 1 MICROS Powered USB	9 Total • 4 on I/O Panel • 1 Internal for Flash Drive • 2 Internal for Options • 2 MICROS Powered USB	6 Total • 4 on I/O Panel • 1 Internal for Flash Drive • 1 Internal for Options
USB Control	Power to USB ports can be controlled	USB ports can be independently disabled for security.	USB ports can be independently disabled for security.	NA
SATA Interface	NA	SATA Interface Standard	2 SATA 2 Interface	NA
Expansion Bus	NA	Optional PCIexpress Expansion	Mini-PCI and Optional Express Card	NA
Serial Ports	4 Available • 1 5/9/12V Powered DB9 RS232 • 1 12V Powered DB9 RS232 • 1 RJ45 RS232 • 1 RJ45 RS422/RS232/IDN	4 Available • 1 DB9 RS232 • 2 RJ45 RS232 • 1 RJ45 RS422/RS232 IDN	4 Available • 2 DB9 RS232 • 1 RJ45 RS232 • 1 RJ45 RS422/232/IDN	3 Available • 1 DB9 RS232 • 1 RJ45 RS232 • 1 RJ45 RS422/RS232 IDN

mWorkstation – Product Overview

Specification/Feature/Functionality	mStation	WS5A	PCWS2015	KW270
VGA Output	NA	1 VGA Connector on I/O Panel (provides mirrored display output with Windows CE, dual independent display output with Win32 OS)	1 VGA Connector on I/O Panel	NA
Factory Recovery	Standard, activated via • Power Button • Utility Both password protected	Standard, activated via: • Hotkey Combo • CMOS Menu	Standard, activated via: • Hotkey Combo • CMOS Menu	NA
Operating System Support	• Windows Embedded Compact 7	• Windows Embedded CE 6.0 R3 • Windows POSReady 2009 • Windows POSReady 7 • Windows 7	• Microsoft Windows 7 Pro • Microsoft POSReady 7 • Microsoft POSReady2009	• Windows Embedded CE 6.0
Operator LED	Blue LED	White LED	Green LED	Green LED
Application Support	• Simphony 1.6 MR4 • RES 5.2	• 9700 • E7 • RES • Simphony 1 • Simphony 2	• 9700 • RES • Simphony 1 • Simphony 2	• 9700 • Simphony 1
Integrated Finger Printer Reader	NA	Optional	Optional	NA
Customer Display	1 Customer Display Port	2 Customer Display Ports	2 Customer Display Ports	1 Integrated Customer Display 1 External Customer Display Port
Accessory Power	12V Out	Optional 12V Out	12V Out	9V & 12V Out
Cash Drawer Ports	2 – Series 2 CD Ports Requires adapter cable for legacy CD support	2 – MICROS CD Ports	2 – MICROS CD Ports	2 – MICROS CD Ports

mWorkstation – Product Overview

mTablet & mStation Overview

The MICROS mTablet is an all new tablet designed specifically with POS requirements and harsh hospitality environments in mind. Featuring a 10.1" display with a projected capacitive touch screen, the mTablet utilizes the latest technologies, including a cutting edge dual core processor. A modular design allows the mTablet to feature a secure, integrated magnetic card reader that is capable of hardware encryption of track data, which can be quickly replaced with additional peripheral devices such as scanner/imagers and RFID readers as they become available.

To meet the needs of the hospitality environment, including both indoor and outdoor environments, the mTablet features an extremely wide operating temperature range, a robust casework and hardened touch screen for a superior level of durability and drop protection, and a tight design to withstand the worst spills and weather.

When the mTablet is combined with the mStation, the result is a complete POS client featuring a full range of peripheral and connectivity options. The mStation allows customers to use all of their existing peripheral devices, from printers and cash drawers to customer displays, scanners, scales and more. Additionally, when wireless networks are not present or have gaps in signal coverage the mStation allows customers to take advantage of traditional wired networks, with a 10/100/1G capability.

The mTablet and mStation provide MICROS customers with a tailored solution for their business needs. Unlike consumer products, these devices are tailored for the hospitality and retail environments, providing a clean, secure, integrated device hardened to withstand the day to day abuse common in these environments. As with all MICROS hardware, the mTablet and mStation achieve a set of goals to provide maximum benefit to MICROS customers. These goals include simplified installation, high levels of reliability, unobtrusiveness, and adaptability to various operational requirements.

Installation

Each mTablet ships with the MICROS Client Application Loader (CAL) installed. CAL is key to the highly intuitive installation and configuration of the mTablet, and provides ongoing monitoring and updating of the device.

MICROS CAL on the mTablet allows for device configuration to occur through either a wired network (when installed on an mStation) or wireless. In a wired network, the Client Application Loader takes care of assigning an IP address, and downloads the correct database for the mTablet, so it is quickly up and running. If platform updates are available the CAL will download and install those as well, including new drivers, firmware, even an entire OS update. These capabilities are available in both wired and wireless configurations.

Reliable

MICROS products have set high standards for reliability. The mTablet and mStation are designed to continue this trend of long lasting, trouble free operation.

Even though passively cooled, the mTablet and mStation retain MICROS' commitment to spill resistance and wide operating temperature ranges.

The mTablet features full gasketing internal to the assembly, and electrically isolated connectors along its lower edge, making it immune to damage from spills, rain, snow and standing liquids. The mStation is also designed for maximum protection. The power supply is mounted internally, ensuring it is always correctly placed and not subject to the abuse and spills that plague external units and peripheral cables are securely held in place, immune to splash, debris or tampering.

MICROS workstations are installed in a variety of locations, frequently in less than ideal environments. In addition to spill resistance, the mTablet is designed to operate in temperatures ranging from -10° centigrade (14°F) to 60° centigrade (140°F), allowing the device to be used in areas that are not temperature controlled, including patios, poolside, in outdoor concessions and elsewhere.
The mTablet is constructed of magnesium alloy and PC-ABS, which provide a robust casework that can withstand years of abuse. The raised front bezel provides an attractive finish to the mTablet, while providing protection for the touchscreen and LCD. This design provides the mTablet with a level of impact resistance that consumer products cannot achieve.

Unobtrusive

The sleek styling of the mStation complements any décor, with an attractive finish, low profile and small footprint. The mStation requires very little counter space, leaving this valuable area open for customer interactions.

The mStation allows the installed mTablet to be oriented in either portrait or landscape modes, with the magnetic card reader positioned at the top, or either the left or right side of the terminal. The self-tightening hinges of the mStation allow for easy angular adjustment.

Special care was taken to make sure the mStation provides a stable base, is easy to install, and reduces the overall footprint of the device. The raised feet of the mStation ensure spills and standing liquids do not interfere with operations. These feet are also designed to guide data lines from the customer displays, ensuring a clean appearance and proper strain relief.

The mStation also accommodates an optional high capacity battery, allowing the unit to be used completely unplugged from electrical sources. The optional battery also provides power to the I/O panel and integrated peripheral devices, as well as maintaining charge to an installed mTablet. The optional battery is installed in the bottom of the mStation and is charged by the mStation when AC power is connected. An indicator light on the front of the mStation provides

charge status of the battery. The battery can be easily accessed by removing the cover plate, or the cover plate can be locked into place with the provided security screw.

The mStation is easy to use, and mounting the mTablet is quick and intuitive. Channels along the side of the mTablet engage rails on the mStation, allowing for fast alignment. Two captive screws below the mating connection of the mStation allow users to lock the mTablet into place if desired.

The mStation also provides mounting locations for modular peripheral integration, including customer display options and soon to be released scanner and printer modules.

Adaptable

The flexibility of the mTablet and mStation is greatly enhanced by its modular design and available options.

Mobile Operation

The integrated wireless capabilities of the mTablet allow customers the flexibility of providing service at any point in their establishment, whether table side, line busting, or in seat service The rugged design of the mTablet ensures it will withstand the abuse, spills and extreme temperatures found in these environments

Fixed & Portable Operation

The mStation provides peripheral connectivity for the mTablet, and allows connection to AC power and wired networks. When docked, the mTablet initializes the ports of the mStation – this process can take several seconds. Each mStation is assigned a unique identifier by the MICROS application, allowing the tablet to identify key attributes of the mStation, including cash drawer assignments by employee. The mStation also charges the mTablet when installed. When the mTablet is undocked, the peripheral ports on the mStation lose all functionality. There is no standalone functionality of the mStation.

The mStation can be equipped with an optional high capacity battery. This is the same battery used by the MICROS Keyboard Workstation 270. Unlike the KW270, all mStation units are "battery ready". When equipped with a battery, the mStation can provide full portable operation of an mTablet and modular peripherals, unplugged from AC power.

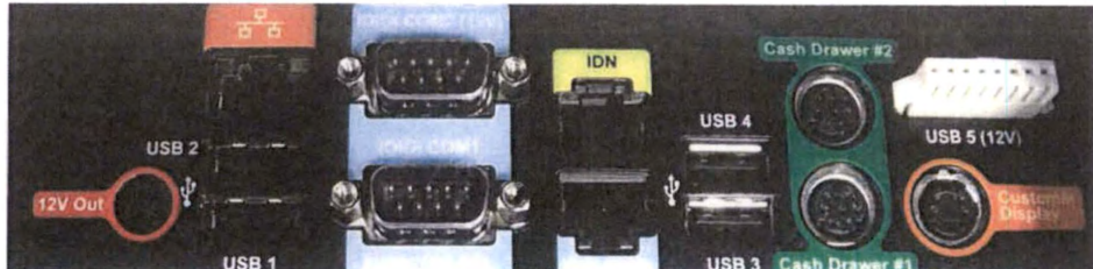
A special Concessions configuration of the mTablet that removes wireless capabilities and the tablets internal battery is available for situations where a removable, mobile tablet is not necessary. This configuration must be mounted within the mStation at all times, and either AC power or the mStation high capacity battery must be present to provide power to the device. It should be noted that there is **no field upgrade** to add wireless capabilities (802.11 or Bluetooth) to this configuration at a later time.

Peripheral Support

The mStation supports a wide variety of peripherals. The I/O panel features 2 MICROS Series 2 cash drawer ports, 10/100/1000BaseT network, 4 USB 2.0, 4 Serial ports (1 - RS-232 DB9 w/5/9/12V software selectable power, 1 RS-232 w/12V power, 1 IDN- switchable, 1 RJ45 serial), 1 MICROS customer display, 1 MICROS Powered USB (12V) ensure the mStation will accommodate the range of devices found in typical hospitality installations.

mWorkstation – Product Overview

micros



The mStation I/O panel includes some significant changes from previous generations of MICROS products. The traditional MICROS cash drawer ports have been replaced with Series 2 ports. These new cash drawer ports are significantly smaller than the previous generation, and occupy less space on the I/O panel and circuit board. The Series 2 ports also feature an expanded number of connectors, allowing for future options on the cash drawer interface. An adapter cable to provide backwards compatibility to existing MICROS cash drawers is available.

In addition, the mStation features a single customer display port. This port is compatible with existing MICROS pole displays. The mStation integrated customer displays will also use this connector, replacing the integrated customer display connector found on the WS5/WS5A and PCWS 2015.

The 12V power output can be used to power external peripheral devices.

mWorkstation – Product Overview

Customer Displays

The MICROS 240x64 customer display has been redesigned to match the look of the mStation. The integrated display mounts directly to the mStation and has a fixed angle. The display connects to the single customer display port at the I/O panel. Alternatively the customer display port can be used for an external 240x64 pole display.

The redesigned pole display matches the styling of the mStation as well. The oval base of the pole features a screw hole pattern that aligns with the mounting locations on MICROS cash drawers. The pole display comes with a 3' cable and connects to the I/O panel of the mStation.

MICROS also offers an LCD pole display Y cable, allowing two LCD pole displays to be connected to the mStation simultaneously. This cable is useful in locations such as cafeteria lines, where customers may approach the cashier station from either side.

At this time there is only a single 18" pole display offering. Additional configurations may be offered in the future. Existing MICROS pole displays are compatible with the mStation.

Depot Maintainable

The fundamental goal of the mTablet and mStation is to provide the most reliable, trouble free operation of any device on the market, while delivering the performance and capability required by current applications. MICROS achieves this goal through the combination of many years of experience, thorough engineering research and design, and the selection of superior components.

The second goal is to reduce the impact of a hardware problem, in both cost and, more importantly, down time. It is a recognized fact that no device is impervious to failure. How quickly and easily a system can be repaired or replaced is an important consideration in the hardware selection process. The following tools allow the mTablet achieve its second goal.

Personality Module

The qualities that make the mTablet easy to install also make it ideal for depot maintenance. While the mTablet features a rugged design, accidents can and do happen. When it is necessary, employees with little or no previous training can replace the device. The mTablet retains MICROS' unique "*Personality Module*", making swapping mTablets as easy as replacing a flash memory card in a camera.

Each mTablet maintains identifying information on an integrated microSD card. Applications, registry data and offline totals are all stored in the *Personality Module*. Moving the personality module from one device to another effectively "swaps" the identity of the units.

If an mTablet fails, replacing it can be as simple as unboxing a new device, removing the microSD from the broken unit and installing it in the new one and powering up.

MICROS Factory Recovery

Like previous generations of MICROS hardware, the mTablet has incorporated MICROS Factory Recovery, which allows a technician to easily and quickly restore a device to its factory fresh, out of the box condition.

mWorkstation – Product Overview

The mTablet implements recovery through a password protected utility accessed either by pressing the power button for several seconds, or through a utility in the boot directory of the operating system. After activating factory recovery the mTablet will reload its original Windows Embedded Compact 7 operating system image, drivers, and CAL client, then format the microSD card, making the unit ready to be rotated into a depot inventory. If the integrated encrypting magnetic stripe reader has been set to encrypting mode, factory recovery will reset to the factory default of non-encrypting.

mTablet and mStation Technology

To meet design objectives, MICROS carefully selected each component of the mTablet. Special emphasis was placed on selecting components that are reliable, efficient, and available for many years to come.

The mTablet and mStation are designed around embedded and industrial components; those items identified by their manufacturer for long life cycle, superior specification and tightly controlled quality.

Processor

The latest Freescale processor, the i.MX6, was selected to meet the balance of high performance and low power consumption. This new processor is based on the ARM Coretex A9 architecture. The Freescale i.MX6 family of processors allows for a range of performance options. MICROS has selected a dual core. 1GHz model for use in the mTablet, which provides an excellent balance of performance and battery conservation.

Persistent Storage

The mTablet features two storage locations. A fixed, 4G eMMC flash device on the main board is configured in multiple partitions, and encompasses the "boot" partition as well as the recovery partitions.

The secondary storage device is the microSD flash card. The microSD is a removable file system storage device that was chosen for its reliability and relative low cost per GB. The microSD stores the tablet specific registry hive, as well as applications and off line totals.

The mTablet comes standard with the microSD installed and this device is **REQUIRED** for all MICROS applications. The removable nature of the microSD was also required to support the MICROS identity-swapping, *Personality Module* feature. The microSD card is located under the magnetic card reader assembly of the mTablet, which is secured by 4 Allen head screws. Each mTablet comes with a tool for removal of these screws as necessary.

Encryption Ready Magnetic Stripe Reader (MSR)

The integrated magnetic stripe reader features a three track titanium head, for excellent wear characteristics, allowing for more than 2 million reads. The head is also capable of providing bank card encryption at the swipe, providing a hardware level security to credit card acceptance.

The MSR encryption utilizes a Triple Data Encryption (TDES or 3DES) algorithm with a Derived Unique Key Per Transaction (DUKPT) key rotation algorithm. These techniques are industry standards to ensure secure encyrption and key management.

The magnetic stripe reader is currently preinjected with a Merchantlink key and shipped in an non-encrypting mode. Additional keys will be available in the future. MICROS applications which support encryption at the swipe will enable encryption when POS operations begin. By encrypting track data at the swipe, the mTablet may

allow customers to be eligible for reductions in PCI assessment. Customers should discuss the advantages of hardware level encryption with their assessor.

Double Molded Casework

The rear casework of the mTablet is made of highly durable PC-ABS plastic, and is constructed with a unique "double mold" process, which allows for the permanent integration of a soft gasket material around the perimeter of the case. This gasketing process makes the mTablet impervious to spills, rain, snow and even periods of time in standing liquids.

In addition to the gasketing around the casework, the I/O connections of the tablet are gasketed and electrically isolated, ensuring there are no issues if liquids come in contact with this area of the device.

Environmental Regulations

MICROS has been at the forefront of the move to more environmentally friendly design and manufacturing processes. MICROS workstations, including the mTablet and mStation, are designed to meet current and anticipated environmental regulations, including international requirements.

The mTablet and mStation, (as well as the PCWS 2015, WS5A, KW270, WS5, WS4 LX, WS4 and KWS4) meet the strict European Union Reduction of Hazardous Substance (RoHS) initiative, as well as the similar RoHS initiatives implemented by China.
In addition to meeting governmental regulations, MICROS has implemented other, smaller measures to minimize our products environmental impact, including:

- Continuing efforts to reduce power consumption while retaining high performance levels. MICROS workstations require on average half the energy of competitive products.
- Maintaining wide operating temperature ranges so that the POS equipment does not dictate room cooling or heating requirements.
- Screensavers with automatic backlight controls to greatly increase the life of LCD backlights.

Operating System and Platform Software

Windows® Embedded Compact 7

The mTablet comes preinstalled with the latest embedded operating system from Microsoft, Windows Embedded Compact (EC) 7. By taking advantage of the modular nature of this embedded operating system, MICROS is able to tailor an OS image specifically for the mTablet. This ensures the image only contains components and drivers relevant to the hardware, dramatically reducing the OS size and resource requirements.

This strict control of the operating system also allows MICROS to improve the security of the mTablet. By choosing not to include an e-mail client, drive letters, scripting components, and other components often targeted by developers of malware, MICROS has greatly reduced the chances of the mTablet being afflicted by a virus, spyware or other destructive programs.

Utilizing Windows Embedded Compact 7 provides a number of other advantages to the mTablet, including:

Lower Operating System licensing cost – Windows EC7 is dramatically less expensive than Windows 7 or POSReady 7. Not only does this lower initial cost, but keeps future upgrade costs down as well.

Less Maintenance – Since the mTablet operating system is tightly controlled by MICROS, there is no need for end users to monitor and install upgrades and hot fixes issued by Microsoft on a weekly basis.

Registry Hive – Key to the functionality of the Personality Module, EC7 provides the ability to "hive" the registry on the microSD, while the operating system itself resides on the eMMC. This makes the registry portable, enabling the ability to swap it from a failed unit into a new mTablet.

Ability to Upgrade OS Remotely – The small footprint of the Windows EC7 operating system makes it possible for CAL to download and upgrade the operating system on an mTablet in a completely unattended manner.

Long Term Operating System Support – Microsoft has extended support for the EC7 operating system, ensuring at least 10 years of ongoing support.

mTablet Platform Software

The mTablet platform software consists not only of the Windows Embedded Compact 7 operating system, but also several other components that MICROS has developed specifically for the device. All of these components come pre-loaded on the mTablet. These software components include:

- A bootloader tailored for the mTablet, to provide pre-boot functionality such as the MICROS Factory Recovery and Auto Flash Upgrade.
- The OEM Abstraction Layer (OAL), essential software that allows the Windows Embedded Compact 7 OS to control the mTablet hardware.
- Hardware Device Drivers, specific to the unique capabilities of the mTablet and mStation.

mWorkstation – Product Overview

- mTablet API Driver, to allow application programs to easily access the various functions of the mTablet.
- A Diagnostic Utility, providing a resource to test the functionality and validate software versions of both the mTablet and mStation. The Diagnostic Utility provides the ability to test peripheral components such as the magnetic card reader, cash drawers, operator display, customer displays and more.

MICROS Client Application Loader

The mTablet comes pre-loaded with the MICROS Client Application Loader (CAL). The CAL is an intelligent software agent designed to remotely manage the software on the mTablet. The CAL is open in design and can be used with both MICROS and non-MICROS applications. The cost of the CAL is included in the cost of the mTablet.

mWorkstation – Product Overview

Orderable Parts

mTablet/mStation

The **mTablet** is available in two configurations. Each contains the following:

- mTablet
- 2 MICROS Employee Cards
- Allen key for MSR Assembly

The **mStation** is available in one configuration, which contains the following:

- mStation
- 3 MICROS Employee Cards
- US Power Cord
- 8 Cable Ties
- Allen Key for Battery Cover Security Screw

Part Number	Description
400962-002	mTablet, Standard Display, EC7
400962-000*	mTablet, Std Disp. No Battery, No Wireless. * Must Use with mStation
700351-031	AC Wall Adapter for mTablet Charging (not needed when mTablet used with mStation)
400374-020	mStation
700043-900	Battery for mStation

*Please note that this configuration is intended primarily for use as a Concessions terminal. It has no wireless network capability, including 802.11 or Bluetooth. There is no internal battery in this device. Field upgrades of this system **are not possible**.

Customer Displays

Part Number	Description
400380-001	Rear Customer Display (240x64)for mStation
700827-028	Pole Display , 240x64, 18" Pole
300107-030	Y Cable for 240x64 Pole Display

Cash Drawers

The mStation uses a new cash drawer connector which is not compatible with existing MICROS cash drawers, unless an adapter cable is utilized. The cash drawers below are the initial offerings featuring this new connector, additional drawers will be added in the future.

Part Number	Description
400018-226	Cash Drawer, Series 2 Connector, Dual Media Slot, 5 Bill, 5Coin w/Roll Coin Storage, 18"x16.7"x4.17. APG Series 4000
400018-233	Cash Drawer, Series 2 Connector, 13"x17", APG SERIES 4000 JD030-BL1317-B1A
300290-020	Cash Drawer Conversion Cable - Adapts MICROS Series 1 Cash Drawers to Series 2

Serial Port Conversion Cables

Converts RJ45 Serial Port Connection to RS-232 DB9 Serial Connection

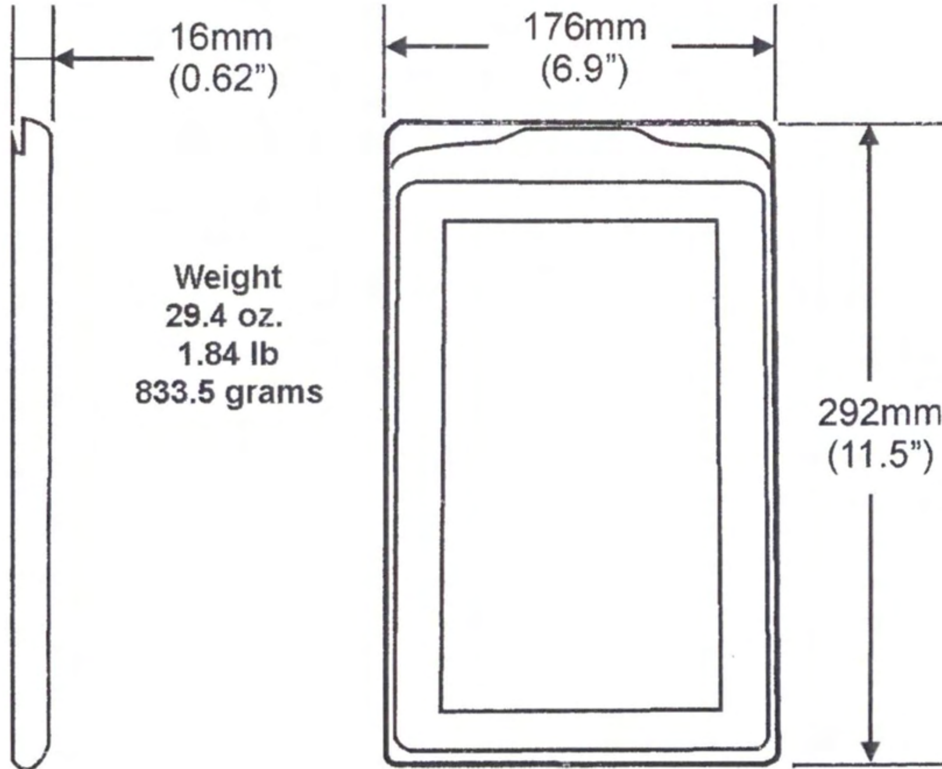
Part Number	Description
300319-102	Cable Assy, IDN to RS232, No Handshaking, RJ45 To DE-9P
300319-103	Cable Assy, RS232 with Handshaking, RJ45 to DE-9P

Warranty Information

Direct End-user Warranty and Maintenance Information

The mTablet and mStation and customer displays are sold with a 1 year, "all zones", on-site, extended hours of coverage (9:00AM to 10:00PM, 365 days) warranty to MICROS Direct End-users.

Appendix A - Dimensions



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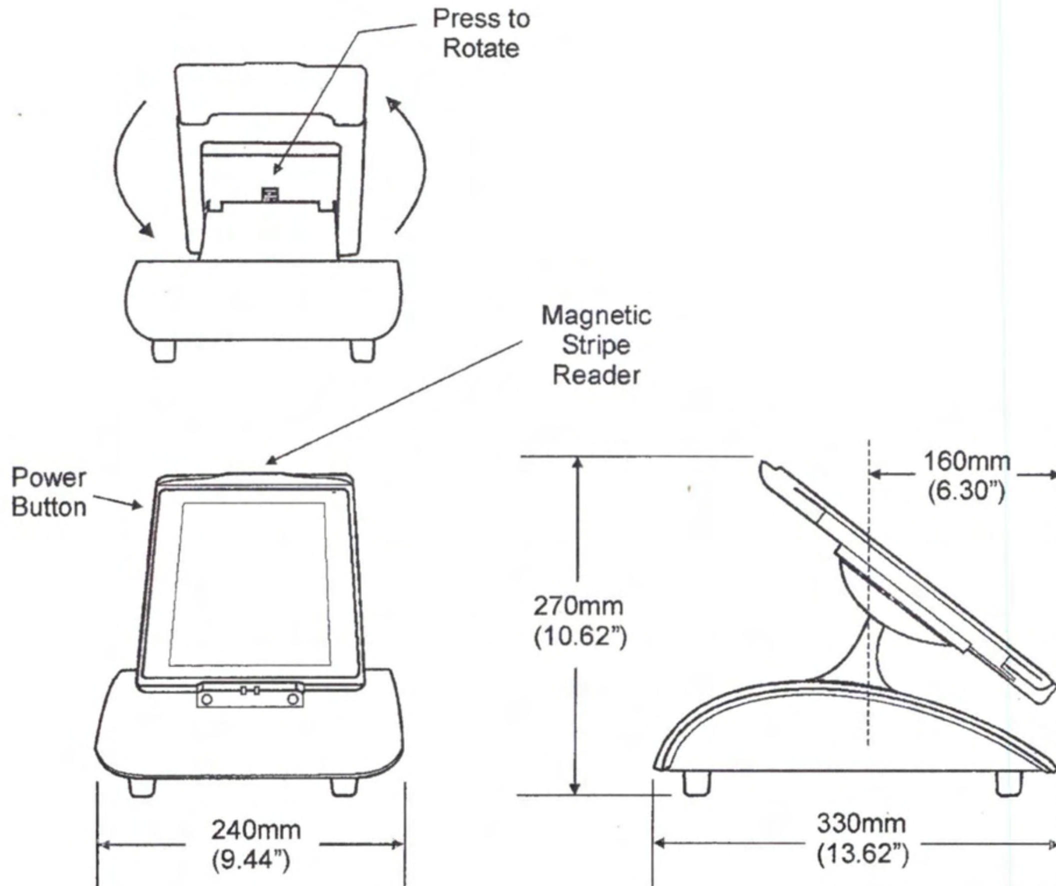

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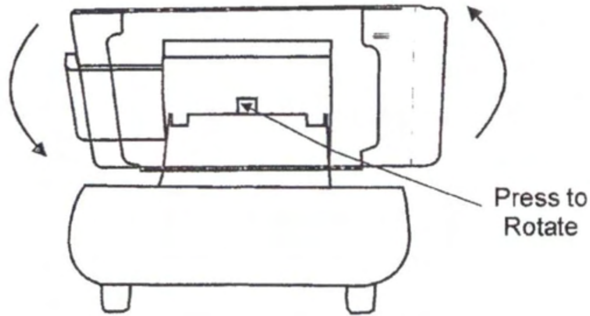

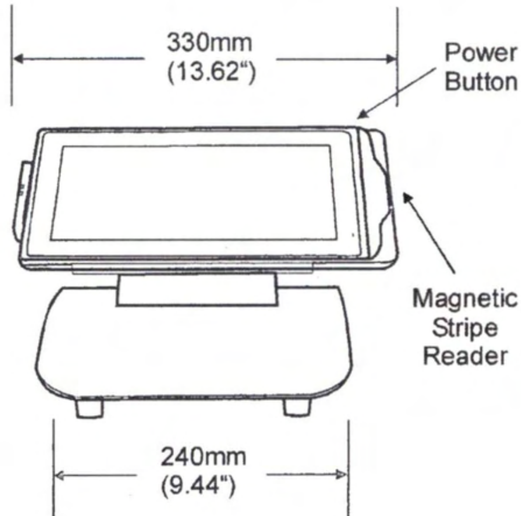

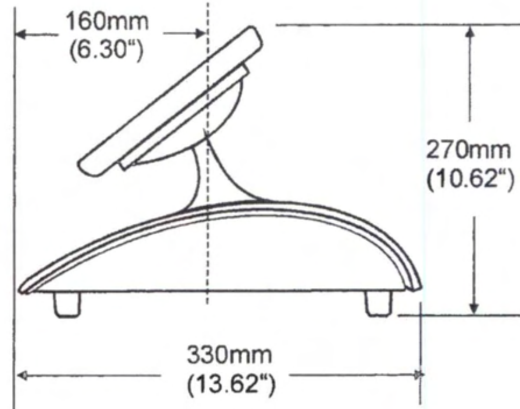

Exhibit 2

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UC Hastings Scholarship Repository

Propositions | California Ballot Propositions and Ballot Initiatives

1990

Voter Information Guide for 1990, General Election

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California BALLOT PAMPHLET

Important Notice to Voters

Information regarding measures adopted by the Legislature after June 28, 1990, will be included in a supplemental ballot pamphlet that will be mailed to you or will be printed in newspapers throughout California. You can also obtain one from your county elections office or by calling 1-800-345-VOTE.

General Election

November 6, 1990

CERTIFICATE OF CORRECTNESS

I, March Fong Eu, Secretary of State of the State of California, do hereby certify that the foregoing measures will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 6, 1990, and that this pamphlet has been correctly prepared in accordance with law.

Witness my hand and the Great Seal of the State in Sacramento, California, this 14th day of August 1990.

March Fong Eu

MARCH FONG EU
Secretary of State

Secretary of State
SACRAMENTO 95814

Dear Californians:

This is your California Ballot Pamphlet for the November 6, 1990 General Election. It contains the ballot title and a short summary provided by the Attorney General, the Legislative Analyst's analysis, the pro and con arguments and rebuttals, and the complete texts for Propositions 124 through 140. It also contains the legislative votes cast for and against each measure proposed by the Legislature. Measures adopted by the Legislature after June 28, 1990, will be included in a supplemental ballot pamphlet. This election, we are also including statements from candidates for Governor and statements from political parties about their philosophies and purposes. In addition, we are asking you to respond to a survey that we hope will help us to find ways to make the statewide ballot pamphlet more useful to you. You will note that we have already made some changes in the format.

Many rights and responsibilities go along with citizenship. Voting is one of the most important, as it is the foundation on which our democratic system is built. Read carefully all of the measures and information about them contained in this pamphlet. Legislative propositions and citizen-sponsored initiatives are designed specifically to give us, the electorate, the opportunity to influence the laws which regulate us all.

Take advantage of this opportunity and exercise your rights by voting on November 6, 1990.

Please note that Proposition 124 is the first proposition for this election. To avoid confusion with past measures, the Legislature passed a law which requires propositions to be numbered consecutively starting with the next number after those used in the November 1982 General Election. This numbering scheme runs in twenty-year cycles.

We need your help. Please see the Ballot Pamphlet Survey on pages 139 and 140

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An Overview of State Bond Debt will appear in a supplemental ballot pamphlet.

124 Local Hospital Districts. Legislative Constitutional Amendment

Official Title and Summary:

LOCAL HOSPITAL DISTRICTS.
LEGISLATIVE CONSTITUTIONAL AMENDMENT

- This measure would permit the Legislature, by statute, to authorize local hospital districts to acquire and own stock of corporations engaging in any health care related business, as defined by the Legislature.
- Provides that the district shall be subject to the same obligations and liabilities imposed by law upon all other stockholders in those corporations.
- Provides that the amendments do not repeal or otherwise affect an existing statute denying professional rights, privileges, and powers to corporations and other artificial legal entities.

Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:

- This measure has [illegible]

Final Votes Cast by the Legislature on ACA 29 (Proposition 124)

Assembly:		Senate:	
Ayes	71	Ayes	37
Noes	0	Noes	0

Analysis by the Legislative Analyst

Background

The State Constitution generally prohibits the state and local governments from acquiring or holding corporate stock. The only exception to this restriction involves irrigation districts. Such districts may acquire corporate stock for the purpose of obtaining water, water rights, or control of international water systems.

Proposal

This measure allows the Legislature to authorize local hospital districts to acquire and own corporate stock. The hospital districts are only allowed to invest in corporations that engage in health care-related businesses, as defined by the Legislature.

Fiscal Effect

This measure has no direct fiscal effect, as it merely authorizes the Legislature to allow hospital districts to invest in corporate stock. The ultimate impact on local hospital districts depends on the type of investments allowed by the Legislature and undertaken by the districts.

For text of Proposition 124 see page 73

124 Local Hospital Districts. Legislative Constitutional Amendment

Argument in Favor of Proposition 124

Proposition 124 simply allows a hospital district—an important type of local government agency—to acquire and own stock in health-care related businesses.

Health care is rapidly changing. Hospitals are now operating walk-in clinics to better serve the public. They are joining together with physicians to provide low cost "outpatient" surgery, or to acquire sophisticated equipment and facilities to treat cancer or heart disease. They are forming pre-paid health organizations to cover health care much like the Kaiser Foundation plans.

Or at least private hospitals are.

The 57 hospital districts in California cannot do the same kinds of things because, as local government agencies, they cannot own corporate stock. That ties their hands and denies them the opportunity for joint ventures and partnerships that are now routine for most hospitals.

In rural areas, that means district hospitals cannot use economic and innovative ways to broaden services. In urban areas, it also means district hospitals cannot compete on an equal footing with nearby private hospitals.

This measure corrects this inequity. It allows hospital districts to own stock in health-care related businesses, as defined by the Legislature.

Proposition 124 gives district hospitals an ability that private hospitals have long taken for granted. It allows them to be more resourceful and innovative, and to operate under the same set of rules as private hospitals.

Vote yes on Proposition 124. It's a matter of fairness.

TIM LESLIE
Assemblyman, Fifth District

RON YOUNGREN
President, Association of California Hospital Districts

Rebuttal to Argument in Favor of Proposition 124

Public hospitals are different than private hospitals. Public hospitals are supported by tax dollars and run by political appointees. They do not compete with private hospitals, because they must take any patient who needs care. Their policy decisions are made for political reasons. Unlike private hospitals, they do not make decisions in order to make a profit for their investors.

Since private hospitals are businesses (like grocery stores, jewelers, building contractors, etc.), they have every right to buy stock in other companies and to join in ventures with them. Supporters of this measure say it is unfair to exclude public hospitals from these activities, but it is actually wise public policy.

Currently, NO GOVERNMENT AGENCIES CAN OWN CORPORATE STOCK. It may seem like a minor exception to give hospital districts the right to do so. But it sets a bad precedent of letting government meddle in the private sector. What if city councils start buying stock in companies that do business with their cities? Passage of Proposition 124 will give government agencies new and dangerous power to unfairly influence the free market.

It's fair for private businesses to compete with each other, but not with public agencies that aren't accountable to consumers. In this case, the hands of government hospital districts *should* remain tied. It is very important to keep the stock market private.

VOTE NO on Proposition 124.

THOMAS TRYON
Chairman, Board of Supervisors, Calaveras County

GAIL LIGHTFOOT
Chair, Libertarian Party of California

TED BROWN
Member, State Executive Committee, Libertarian Party of California

Local Hospital Districts. Legislative Constitutional Amendment 124

Argument Against Proposition 124

State, county, and local governments are not allowed to buy stock in private corporations. This is part of our State Constitution, and it is a wise law. Proposition 124 would change that and allow local hospital districts (owned by the government) to buy stock in health care businesses. We urge you to vote NO.

Consider what would happen if governments could buy stock. Government officials could use your tax dollars to buy a company and put it out of business . . . or to offer unfair competition to still-private businesses . . . or to create monopolies like cable TV.

The repressive governments of Eastern Europe (which have fallen recently) owned a lot of companies—and ran them all poorly. The trend emerging in the world is against government control of the economy. Proposition 124 would lead to MORE controls. It would be a back-handed way of nationalizing private companies.

Local hospital districts run government-owned hospitals. Decisions by their boards are made for political reasons, since they do not care about free-market competition. Health care related businesses include health insurance companies, health maintenance organizations (HMOs), drug manufacturers, pharmacies, private hospitals and private nursing homes. Do you really want politics to affect the decisions of such businesses? They are regulated by the state already. Should the state be allowed to own part or all of them as well? We don't think so.

Proposition 124 would allow hospital districts to own stock, but owning stock does little good unless you own a lot of stock in a particular company. The proposition would result in government control of businesses that affect peoples' health and well-being. Voters cannot allow this to happen.

The government has an almost unlimited source of funds (from your pocket). Do you want officials to be playing around in the stock market with your money? The lives and fortunes of millions of people hinge on the price of stocks and the Dow Jones Industrial Average. The ups and downs of the market would be markedly affected by the intrusion of political money and decision-making.

For example, a hospital district could buy a competing private hospital and put it out of business. It could buy control of a drug manufacturer, lower the price of pharmaceuticals for its own use, and thus lower the manufacturer's profit. This would hurt small investors in that company by lowering their dividends and the value of their stock.

Proposition 124 is a bad law. Its passage would lead to other exceptions to the wise wording of our State Constitution and would allow more government control of the economy.

Vote to preserve the stock market, the free enterprise system of competing private businesses, and the autonomy of companies that keep us healthy. VOTE NO on Proposition 124.

THOMAS TRYON
Chairman, Board of Supervisors, Calaveras County

GAIL LIGHTFOOT
Chair, Libertarian Party of California

TED BROWN
Member, State Executive Committee, Libertarian Party of California

Rebuttal to Argument Against Proposition 124

Take over a drug company? Manipulate the stock market?

Never. It can't happen because:

- *VOTERS WON'T ALLOW IT.* They elect hospital district directors and won't stand still for shenanigans.
- *LEGISLATORS WON'T PERMIT IT.* Proposition 124 allows hospital districts (and not the state or anybody else) to buy stocks in health-related corporations *as defined by the Legislature.* Those definitions will be tightly drawn.
- *DISTRICT HOSPITALS COULDN'T AFFORD IT.* No district hospital has that kind of money. For that matter, most of them couldn't afford to buy out another hospital, either.

Far from having an "unlimited" source of funds, most district hospitals are struggling to survive. They are looking for ways to improve services and operate more efficiently.

Like other community hospitals, district hospitals can't hire doctors. What happens if they want to jointly run an urgent care clinic in an area without enough health care, or open a lower cost same-day surgery unit? Most private hospitals would form a corporation and share stock with the doctors. That's something district hospitals can't do.

Of all hospitals, district hospitals may be the most responsive and concerned—after all, they have to answer to the local voters. That doesn't mean they should be treated like second class citizens.

They're not out to squelch free enterprise. They want to increase it. All this proposition does is give them some of the tools their competitors already have.

HOWARD S. BROWN, M.D.

FREDERICK A. GROVERMAN, D.V.M.

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

125 Motor Vehicle Fuels Tax. Rail Transit Funding. Legislative Constitutional Amendment

Official Title and Summary:

MOTOR VEHICLE FUELS TAX. RAIL TRANSIT FUNDING.
LEGISLATIVE CONSTITUTIONAL AMENDMENT

- This measure would amend the Constitution to authorize expenditures from the revenues raised from state-imposed taxes on motor vehicle fuels and fees upon the operation and use of vehicles for the acquisition of rail transit vehicles and rail transit equipment which operate only on exclusive public mass transit guideways.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- An unknown amount of revenues raised from the state-imposed taxes on motor vehicle fuels and fees upon the operation and use of vehicles may be shifted from existing uses for the purchase of rail transit vehicles and related equipment that operate on mass transit guideways, as a result of this measure.
- The extent of the shift depends upon the number of counties or geographic areas that approve and use these revenues for the specified purposes.

Final Votes Cast by the Legislature on ACA 32 (Proposition 125)

Assembly:	Ayes 66	Senate: Ayes 29
	Noes 5	Noes 5

Analysis by the Legislative Analyst

Background

Under Article XIX of the California Constitution, certain revenues are restricted for particular transportation purposes. These revenues come from several sources, including state taxes on motor vehicle fuels (mainly gasoline and diesel), truck weight fees, drivers' license fees, and vehicle registration fees. In 1990–91, these revenues, referred to as "Article XIX" revenues, will total approximately $3.3 billion.

In general, Article XIX revenues can be used by state and local governments for the construction, maintenance and operation of public streets and highways, and the construction of public mass transit guideways (such as tracks and stations). In addition, certain of these revenues can be used by state government to regulate and register vehicles and to enforce traffic laws. However, none of these revenues currently may be used to acquire public mass transit vehicles or equipment.

Before Article XIX revenues can be used to construct public mass transit guideways, the California Constitution requires that the use be approved by a majority of the voters in the county or geographic area where the monies are to be spent. Currently, 22 counties have approved the use of Article XIX revenues for public mass transit guideway purposes.

In 1990–91, of the $3.3 billion in Article XIX revenues, about $2.6 billion will be spent by state and local governments on streets and highways and public mass transit guideways. This includes about $80 million of state expenditures for guideway projects. In addition to these state funds, there are an unknown amount of local expenditures for guideway projects.

Proposal

This constitutional amendment allows Article XIX revenues to be used for the acquisition of rail transit vehicles and rail transit equipment that operate only on public mass transit guideways. These uses must first be approved by a majority of the voters in the county or geographic area where the revenues are to be spent.

Fiscal Effect

The measure would potentially result in a shift, of an unknown amount, of Article XIX revenues from currently authorized uses to the acquisition of rail transit vehicles and related equipment that operate on public mass transit guideways. The extent of the shift would depend on the number of counties or geographic areas that approve and use Article XIX revenues for these purposes.

Any county or geographic area that proposes to use Article XIX revenues for rail transit vehicles or related equipment would probably incur minor election costs to place a measure before the voters.

For text of Proposition 125 see page 73

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125 Motor Vehicle Fuels Tax. Rail Transit Funding. Legislative Constitutional Amendment

Argument in Favor of Proposition 125

VOTE YES ON PROPOSITION 125!

Proposition 125 improves rail transit without increasing taxes one cent. It allows a portion of the existing state gas tax, which is already allocated by law for mass transit capital improvements, to *also* be used to acquire rail transit rolling stock, such as light rail cars, rapid transit cars, and commuter/intercity rail cars and locomotives.

In 1974, a large majority of California voters approved allocation of gas tax funds to rail mass transit projects. In doing so, Californians recognized that good rail systems were needed along with highways to provide a balanced transportation system. As a result, millions of Californians are now using successful rail systems such as BART in the Bay Area, light rail in San Diego and Sacramento, and Amtrak between Los Angeles, Orange County, and San Diego, and elsewhere throughout California.

The California Constitution currently allows gas tax funds to be used for all rail mass transit capital outlay needs—except the acquisition of rolling stock. Proposition 125 will also allow these funds to be used for passenger rail cars and locomotives. In many cases, purchasing additional rail cars is the highest capital expenditure priority of a transit system. Proposition 125 will result in increased efficiency because it will allow state and local agencies the flexibility to use these existing rail funds for the most necessary rail capital improvements.

Proposition 125 will help provide more seats on existing rail lines, and it will provide an additional funding source for equipment for new rail lines now in the planning stages for many parts of California. Proposition 125 will also provide the equipment to allow trains to run more often. As transit becomes more convenient, it will continue to reduce gridlock on our overburdened freeways.

Proposition 125 will benefit both urban and rural parts of California because it applies to both urban rail transit lines in Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties, the San Francisco Bay Area, Sacramento, and San Diego, *and* intercity Amtrak lines connecting California's rural areas with urban centers along the San Joaquin Valley, central coast, and north state rail routes.

Voting YES ON PROPOSITION 125 is a YES VOTE ON CLEANER AIR AND LESS TRAFFIC CONGESTION. IT IS ALSO A YES VOTE ON A BALANCED TRANSPORTATION SYSTEM.

Vote YES on Proposition 125!

HONORABLE JIM COSTA
State Assemblyman, 30th District
GERALD H. MERAL
Executive Director, Planning and Conservation League
WILLIAM E. LEONARD
Chairman, California Transportation Commission

Rebuttal to Argument in Favor of Proposition 125

Proponents of Proposition 125 begin their argument with a PATENT LIE! The law as proposed does not limit the proportion of the gasoline tax which could be diverted for public mass transit purposes. TAXES WOULD HAVE TO BE RAISED TO MAKE UP THE DIVERTED MONEY if roads are to be maintained at current standards! In addition, gasoline tax revenues would be reduced by the amount of reduced automobile use resulting from increased utilization of tax-funded public mass transit. TAXES WOULD HAVE TO BE RAISED TO MAKE UP THIS SHORTFALL!

Proponents of Prop. 125 say their proposal will provide a balanced transportation system. Where is the balance in requiring one group of riders, who must pay their own way, to also subsidize another group of riders, who only pay one tenth of the cost of their transportation?

Proposition 125 is blatantly unfair in that it requires millions of Californians who will never have access to the tax funded mass transit facilities to pay for subsidized transit for others who happen to live on public mass transit routes.

Proposition 125 promotes an ELITIST MASS TRANSIT SYSTEM that riders would not use if they were required to pay the full cost thereof.

PROPOSITION 125 UNBALANCES THE MARKET IN PUBLIC TRANSPORTATION! VOTE NO on Proposition 125!

PROPOSITION 125 IS UNFAIR TO MOTOR VEHICLE USERS! VOTE NO on Proposition 125!

PROPOSITION 125 WILL RESULT IN INCREASED TAXES! VOTE NO on Proposition 125!

PROPOSITION 125 IS MISREPRESENTED BY ITS PROPONENTS!

VOTE NO ON PROPOSITION 125!

THOMAS TRYON
Chairman, Board of Supervisors, Calaveras County
GAIL LIGHTFOOT
Chairman, Libertarian Party of California
JOHN VERNON
Immediate Past Chairman, Libertarian Party of Californi

Motor Vehicle Fuels Tax. Rail Transit Funding. Legislative Constitutional Amendment

125

Argument Against Proposition 125

PROPOSITION 125 IS BAD LAW!

Proposition 125 requires that taxes be taken from one class of citizens—automobile and truck drivers—to benefit another class of citizens—the riders of mass rail transit, who not only pay no taxes for this benefit, but ride on the backs of those who must use gasoline-powered vehicles for their private and business transportation. Prop. 125 dictates that the cost of driving an automobile or truck be fixed artificially higher—so that the cost of using a mass rail transit system can be priced artificially lower.

PROPOSITION 125 IS SOCIALIZED TRANSIT!

Prop. 125 takes one of the few taxes which resembles a user fee—the gasoline tax—and turns it into an income redistribution system for the benefit of rail transit riders.

PROPOSITION 125 IS BAD ECONOMICS!

It encourages and funds a system of transportation which consistently fails to pay its own way. Promoters of mass rail transit deceive the people into believing that rail transit is a "cheap and affordable" means of transportation. But no rail transit system in existence earns more than half its cost from rider fares. In fact, most transit systems cost eight to ten times more in taxes than the amount dropped into fare boxes.

PROPOSITION 125 IS DISHONEST MASS TRANSIT FUNDING!

While proclaiming the benefits of mass rail transit to the people of California, promoters fail to tell voters and taxpayers that the contractors who build these expensive boondoggles will reap hundreds of millions of dollars in profits—and that these profits will be paid by other persons than those who use the rail transit systems.

PROPOSITION 125 PERVERTS THE MARKET IN PUBLIC TRANSPORTATION!

Prop. 125 is based upon the assumption that the users of public transit systems would not willingly pay the full cost of frequent and efficient public transit. Deregulation of jitneys, taxis, van and bus service would allow the market place to supply the need for alternatives to automobile transportation at a price riders can afford to pay—without having to conceal most of the cost through taxes borne by others.

PROPOSITION 125 IS SIMPLY ONE MORE VERSION OF PLUNDEROCRACY!

Vote for honesty in public transit. VOTE NO ON PROPOSITION 125! Vote for the free market, as the socialist world is now doing. VOTE NO ON PROPOSITION 125! Vote for common sense. VOTE NO ON PROPOSITION 125! Vote for taxpayer control over state government. VOTE NO ON PROPOSITION 125!

THOMAS TRYON
Chairman, Board of Supervisors, Calaveras County

GAIL LIGHTFOOT
Chairman, Libertarian Party of California

JOHN VERNON
Immediate Past Chairman, Libertarian Party of California

Rebuttal to Argument Against Proposition 125

PROPOSITION 125 DOES *NOT* INCREASE TAXES. IT WILL *NOT* INCREASE THE COST OF DRIVING.

PROPOSITION 125 SIMPLY ALLOWS MORE FLEXIBILITY IN THE USE OF *EXISTING* RAIL TRANSIT FUNDS. IT WILL ENSURE THAT THESE FUNDS ARE USED AS EFFICIENTLY AS POSSIBLE TO CONSTRUCT AND MODERNIZE RAIL SYSTEMS THROUGHOUT THE STATE.

Since 1974, the California Constitution has allowed a small portion of the gas tax to be used for rail transportation capital expenditures, including track, stations and signals.

PROPOSITION 125 WOULD ALLOW THESE SAME *EXISTING* FUNDS TO BE USED TO PURCHASE RAIL CARS AND LOCOMOTIVES.

Proposition 125 will permit local and state transit officials to have the flexibility to spend *existing* rail transit funds where they are needed the most. Often, additional rail cars are the best way to expand ridership and improve operational cost-effectiveness.

Do not be misled by the uninformed opponents, whose "arguments" indicate that they have not even taken the time to read or understand Proposition 125. PROPOSITION 125 NEITHER INCREASES THE GAS TAX NOR ALLOCATES MORE FUNDS TO TRANSIT, AS THEY CONTEND.

With ever-increasing highway congestion, Californians need a balanced transportation system now more than ever. That transportation system should include *both* good highways and good rail systems. PROPOSITION 125 WILL HELP PUBLIC RAIL SYSTEMS PROVIDE SUFFICIENT AND UP-TO-DATE RAIL CARS TO BETTER SERVE CALIFORNIANS.

VOTE YES ON PROPOSITION 125!

KIRK WEST
President, California Chamber of Commerce

WILLIAM E. LEONARD
Chairman, California Transportation Commission

HONORABLE JIM COSTA
State Assemblyman, 30th District

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

126 Alcoholic Beverages. Taxes. Legislative Constitutional Amendment

Official Title and Summary:

ALCOHOLIC BEVERAGES. TAXES.
LEGISLATIVE CONSTITUTIONAL AMENDMENT

- Adds to Constitution, alcohol beverage excise tax rates, proceeds payable to General Fund.
- Increases taxes payable to State General Fund on alcoholic beverages, as of March 1, 1991—beer, from 4 to 20 cents per gallon; specified wines from 1 to 20 cents per gallon; fortified wines from 2 to 20 cents per gallon; distilled spirits from $2.00 to $3.30 per gallon.
- Amends Constitution to exclude excise surtaxes imposed by this measure from appropriations limit, as specified.
- Provides that tax rate modifications of this measure control over conflicting provisions of Propositions 134 and 136.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- This measure would result in additional General Fund revenues of approximately $70 million for a portion of 1990–91 and approximately $195 million in fiscal year 1991–92, the first full year it is in effect.
- Similarly, local sales tax revenues would increase statewide by approximately $1.6 million annually.
- Revenues generated after fiscal year 1991–92 will depend upon the trends in alcohol sales.
- Adjustments are also made to the state's constitutional spending limit to include the additional tax revenue.

Final Votes Cast by the Legislature on ACA 38 (Proposition 126)

Assembly:		Senate:	
Ayes	54	Ayes	30
Noes	18	Noes	4

Analysis by the Legislative Analyst

Background

Currently, the state taxes alcoholic beverages at the ate of $2 per gallon on liquor (distilled spirits), 4 cents per gallon on beer, and 1 cent per gallon on most wines. This year, the state will collect about $128 million from these taxes. Most of this revenue (76 percent) will come from the tax on liquor. These revenues go into the state's General Fund to pay for education, health, welfare, and other government programs.

Under existing requirements of the State Constitution (Proposition 98), public schools and community colleges are *guaranteed* a specific amount of funding each year from the state General Fund. This guaranteed amount increases each year. The amount of the increase is calculated using one of three different formulas. The formula used depends on state and local revenue trends and other factors.

Proposal

This measure has two major parts:

- *Alcohol Taxes.* It increases state taxes on most alcoholic beverages.
- *Conflicts with Other Measures on this Ballot.* It contains language stating how conflicts between it and two other measures on this ballot are to be resolved.

Alcohol Taxes. This measure increases state taxes on most alcoholic beverages, beginning March 1, 1991. The tax on beer and most wines would increase from 4 cents nd 1 cent, respectively, to 20 cents per gallon (the tax on sparkling wines, such as champagne, would remain at the current rate of 30 cents per gallon). The tax on liquor would increase from $2 to $3.30 per gallon. As a result, taxes would go up by 9 cents on a six-pack of beer, by 4 cents on a bottle (750 milliliters) of most wines and by 26 cents on a bottle (750 milliliters) of liquor.

The state General Fund would receive all of the revenue from the higher taxes. The measure places the new tax rates in the State Constitution. The Legislature could increase, but not reduce, taxes on alcoholic beverages in the future.

Conflicts with Other Measures on this Ballot. This measure contains language stating how conflicts between it and two other measures on this ballot are to be resolved.

- Proposition 134, The Alcohol Tax Act of 1990, also would impose additional taxes on alcoholic beverages, although at rates higher than those imposed by this measure. If Proposition 134 also is approved, this measure states that all of the provisions in the measure with the largest number of votes will take effect, and *none* of the provisions of the other measure will take effect. The legal effect of this language is uncertain. This is because the State Constitution currently requires that only the *conflicting* provisions of the measure that receives the greater vote prevails.
- Proposition 136, The Taxpayers' Right to Vote Act of 1990, requires that any new or increased "special taxes" with respect to personal property be imposed on the *value* of the property. While the meaning of these provisions in Proposition 136 is uncertain, they may be interpreted to prohibit new *per-unit* special taxes on cigarettes, alcoholic beverages, and other items. However, Proposition 126 imposes a "general tax" on units (gallons) of alcoholic beverages. In addition, the measure states that it is exempt from the provisions of The Taxpayers' Right to Vote Act of 1990.

Fiscal Effect

The higher alcohol taxes imposed by this measure would result in additional state General Fund revenues of about $70 million in 1990–91 (part year) and about $195 million in 1991–92 (first full year). These amounts include increased state sales tax revenue ($2 million in 1991–92) that occurs because the sales tax is levied on the total price of alcoholic beverages, including alcoholic beverage taxes. Similarly, local sales tax revenues would increase by about $1.6 million annually statewide. The amount of revenues after 1991–92 will depend on trends in alcohol sales. The measure increases the state's constitutional spending limit to include the additional tax revenue.

Under existing requirements of the State Constitution, public schools and community colleges may receive approximately 41 percent of the additional revenues from the taxes imposed by this measure. Whether this occurs in any year will depend upon which of the formulas used to determine the state funding guarantee is in effect that year.

For text of Proposition 126 see page 73

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126 Alcoholic Beverages. Taxes. Legislative Constitutional Amendment

Argument in Favor of Proposition 126

Proposition 126: A Better Approach

Proposition 126, the Alcohol Abuse and Drug Education Act, is a far better approach to alcohol taxes than Proposition 134.

Proposition 134 doesn't direct a penny to public schools. Proposition 126 could give nearly $1 billion over 10 years to schools. Experts agree the most effective way to stop alcohol abuse is through early education.

Teaching children the dangers of alcohol consumption and stopping alcohol abuse by adults should be top priorities for California. Education is a key element in winning the war against alcohol abuse.

Proposition 126 is supported by a broad bipartisan coalition of educators, alcohol abuse experts, taxpayer advocates, farmers, and other community and industry leaders.

That's why we urge you to vote YES on the alcohol tax—Proposition 126.

Hundreds of Millions Available for Public School Programs

Proposition 126—the alcohol tax—could raise nearly $1 billion in 10 years for public schools.

An ounce of prevention is worth a pound of cure. Our teachers, principals and school counselors could use this money for programs which can help *prevent* the problems of alcohol use by our children.

An Additional $1 Billion Available for Drunk Driving and Treatment Programs

Proposition 126 raises an additional $1 billion over 10 years which could be used for programs aimed at adults who abuse alcohol. It could be used for programs, with proper budget oversight, such as:

- Hiring new officers to increase drunk driving patrols.
- Treating alcoholics in trauma centers and mental health facilities.
- Curing alcoholics in rehabilitation and recovery programs.
- Stepping up the war on *illegal* drug use and alcohol abuse.

Without Raising Our Income Taxes

None of the money raised by Proposition 126 comes from our income, sales or other taxes. All of this money comes from ***a tax on beer, wine and distilled spirits.*** The taxes on beer and distilled spirits will increase to the national average and wine taxes will be substantially increased.

No Hidden Taxpayer Costs

Proposition 134 also contains hundreds of millions of dollars in ***hidden costs which all taxpayers must bear.*** It guarantees a few privileged government programs hundreds of millions of dollars in yearly budget increases—whether they need them or not—every year, forever.

Proposition 134's budget escalators must come from the state's General Fund—from our income, sales and other taxes. The only other option is to dramatically cut budgets of other important programs—like educational services, senior care and fire protection.

Proposition 126 contains no hidden income or sales tax costs. It just increases alcohol taxes.

Proposition 126, the Alcohol Abuse and Drug Education Act, is a fiscally sound approach to the problems of alcohol abuse. It can help prevent our children from using alcohol. It can provide money for drunk driving enforcement, trauma care centers, mental health and other important programs.

It does all this by imposing a substantial, yet fiscally sound, tax increase on alcohol.

On November 6th, we urge you to vote YES on Proposition 126 and NO on Proposition 134.

ALFRED E. ALQUIST
Chairman, State Senate Committee on Budget and Fiscal Review

ED FOGLIA
President, California Teachers Association

DAVID BROWN
President, Association of California School Administrators

Rebuttal to Argument in Favor of Proposition 126

REBUTTAL ARGUMENT TO ARGUMENT IN SUPPORT OF PROPOSITION 126

PROPOSITION 126 IS SPONSORED BY THE LIQUOR INDUSTRY. The reason they say Proposition 126 is a better approach to taxing the liquor industry than Proposition 134, the "Nickel-a-Drink" proposal, is that Proposition 126 taxes them less.

The only reason Proposition 126 is on the ballot is that the liquor industry spends $1,000,000 each year lobbying the Legislature and has contributed over $1,600,000 to politicians since 1988. What the liquor industry wants, the Legislature gives. That's why the Legislature has not changed the wine tax from 1¢ per gallon since 1937.

The sole purpose of Proposition 126 is to defeat Proposition 134, the "Nickel-a-Drink" Alcohol Tax Initiative. When reading the argument in favor of Proposition 126, CONSIDER THE SOURCE—IT IS THE LIQUOR INDUSTRY!

The arguments in support of Proposition 126 are false and misleading. Proposition 126 does not guarantee one penny to schools for alcohol and drug use education. It does not give any money for the enforcement of California's drunk driving laws.

Only Proposition 134 guarantees funds for alcohol related problems. Only Proposition 134 guarantees funds for education programs and enforcement of drunk driving laws.

Before voting on Proposition 126, ask yourself whom do you trust: the liquor industry or former Surgeon General C. Everett Koop who said: "Who could quarrel with a nickel-a-drink user fee . . . to help save lives."

Don't be fooled by the liquor industry.

VOTE NO ON PROPOSITION 126.

PATRICIA GORMAN
President, California Emergency Nurses Association

MICHAEL SPARKS
Chairperson, California Council on Alcohol Policy

CAROLE McDONALD
Former Director, Victim Services, Mothers Against Drunk Drivers (MADD)

Alcoholic Beverages. Taxes. Legislative Constitutional Amendment 126

Argument Against Proposition 126

Proposition 126 is sponsored by the liquor industry. It is a key component of the liquor industry's campaign to defeat Proposition 134, the "Nickel-a-Drink" Alcohol Tax Initiative.

Proposition 126 places California's excise tax on alcohol in the state constitution. TAX RATES SHOULD NOT BE IN THE CONSTITUTION!

CALIFORNIA HAS THE LOWEST EXCISE TAXES ON ALCOHOL IN THE NATION. For decades, the liquor lobby has opposed every alcohol tax increase proposal before the State Legislature. Now, the liquor industry is supporting Proposition 126. WHY?—in the hopes of pre-empting Proposition 134, the "Nickel-a-Drink" Alcohol Tax Initiative. PROPOSITION 126 DOES NOT EVEN BRING CALIFORNIA'S ALCOHOL TAX UP TO THE NATIONAL AVERAGE!

DON'T BE FOOLED

COMPARE THE TWO

The liquor industry lobbied the Legislature to put Proposition 126 on the ballot.

1,168,995 California voters signed petitions to put Proposition 134 on the ballot.

Proposition 126 will deposit its new tax revenues in the State General Fund, to be spent at the discretion of the State Legislature.

Proposition 134, the "Nickel-a-Drink" Alcohol Tax Initiative, requires that its revenues be invested in programs that address alcohol related problems, including:

- Alcohol and drug abuse education.
- Enforcement of drunk driving, and other alcohol and drug-related, laws.
- Emergency and trauma care treatment.
- Alcohol and drug abuse prevention and recovery programs.
- Alcohol and drug abuse programs.
- Community mental health programs.
- Programs for the innocent victims of alcohol abuse, including spousal and child abuse victims.
- Programs for infants with birth defects caused by alcohol and drug abuse during pregnancy.

Proposition 126 does nothing to address the negative impacts and costs of alcohol abuse to California taxpayers.

PROPOSITION 126 DOES NOT GUARANTEE ONE DOLLAR FOR ALCOHOL AND DRUG USE EDUCATION OR PROGRAMS IMPACTED BY ALCOHOL ABUSE.

Proposition 126 ignores these facts:

- Alcohol costs California taxpayers $13 billion annually.
- Alcohol is the leading cause of death among teenagers.
- California's emergency medical system is near collapse, largely because of alcohol related accidents and injuries.
- Approximately 33% of all mentally ill and homeless persons also have alcohol and drug problems.

PROPOSITION 126 DOES NOT GUARANTEE ONE DOLLAR FOR ENFORCEMENT OF DRUNK DRIVING LAWS.

Before voting for Proposition 126, ask yourself this question:

WHOM DO YOU TRUST?

The liquor industry, which is sponsoring Proposition 126.

OR

The following groups which are supporting Proposition 134, the "Nickel-a-Drink" Alcohol Tax Initiative:

The California Association of Highway Patrolmen
The California Council on Alcohol Problems
The California Council of Churches
California Consortium for the Prevention of Child Abuse
The American College of Emergency Physicians, California Chapter
The California Nurses Association
The California Police Chiefs Association
California Council of Community Mental Health Agencies
The California Council on Children and Youth

Don't be fooled by the deceptive arguments of the alcohol industry. SAY "NO" TO THE ALCOHOL INDUSTRY'S ATTEMPT TO PRE-EMPT THE "NICKEL-A-DRINK" INITIATIVE.

VOTE "NO" on PROPOSITION 126.

VOTE "YES" on PROPOSITION 134.

STEVEN G. MADISON
President, Board of Directors
California Consortium for the Prevention of Child Abuse

DR. DONALD M. BOWMAN
Executive Director, California Council on Alcohol Problems

CHIEF DONALD J. BURNETT
President, California Police Chiefs Association

Rebuttal to Argument Against Proposition 126

Voters should compare Propositions 126 and 134. We're sure you'll agree: Proposition 126 is a better approach.

SPENDS WHAT IT RAISES

Proposition 126 only spends what it actually raises in alcohol taxes—*nearly $200 million annually.*

Proposition 134, in the first year, spends *three times more money than it raises.*

NO IMPACT ON OTHER TAXES

Proposition 126 has *NO* hidden income or sales tax increases.

Proposition 134 guarantees a few government programs more money every year, forever. *Proposition 134's annual budget escalators must be paid for by our income and sales taxes.* The other option: cut other important programs' budgets—like firefighting, senior care and transportation.

MONEY FOR SCHOOLS

Proposition 126 could give *nearly $1 billion over 10 years to public schools*—the most effective place for prevention education. Educators—like the California Teachers Association and California School Administrators—support Proposition 126.

Proposition 134 directs *NO money to public schools.*

FAIR TO CONSUMERS

Proposition 126 increases beer and liquor taxes *to the national average.*

Proposition 134 increases alcohol taxes to *twice the national average*—that's unfair to consumers.

BUDGET CONTROLS

Proposition 126 will receive *strong budget and spending controls.* Programs receiving Proposition 126 money must justify annually that our tax dollars are spent efficiently.

Proposition 134 programs get more money every year—whether they need it or not. No citizens or government group will oversee Proposition 134 expenditures. Money can be spent on office equipment and salaries.

Vote for the better alcohol tax proposition.

YES ON PROPOSITION 126

NO ON PROPOSITION 134

JERRY PIERSON
Secretary/Treasurer, California Council of Police and Sheriffs (Cal-COPS)

SALLY DAVIS
Former Director, State Department of Drug and Alcohol Programs

KIRK WEST
President, California Chamber of Commerce

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

127 Earthquake Safety. Property Tax Exclusion. Legislative Constitutional Amendment

Official Title and Summary:

EARTHQUAKE SAFETY. PROPERTY TAX EXCLUSION.
LEGISLATIVE CONSTITUTIONAL AMENDMENT

- Amends California Constitution to authorize Legislature to exclude from property tax assessment construction or installation of earthquake safety improvements in existing buildings.
- Authorizes Legislature to define improvements eligible for the exclusion.
- Existing 15 year exclusion applicable to earthquake safety reconstruction or improvements for specified existing unreinforced masonry buildings not affected by this amendment.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- If Legislature fully implements measure, it would reduce annual property tax collections from assessment of earthquake safety modifications beginning 1990–91.
- Revenue loss could be millions of dollars annually. Cities, counties, and special districts would bear approximately two-thirds of the loss; school and community college districts one-third.
- State may have to replace lost school district revenues, depending on formula used to determined K–14 education funding guarantee under existing state Constitution requirements.

Final Votes Cast by the Legislature on SCA 33 (Proposition 127)

Assembly:	Ayes 65	Senate:	Ayes 38
	Noes 0		Noes 0

Analysis by the Legislative Analyst

Background

Local property taxes are based on each property's assessed value. As long as a property has the same owner and there is no new construction, its assessed value generally remains the same each year, except for a small increase for inflation. Whenever property is bought or built on, however, it generally is given a new assessed value. For existing buildings, new construction causes a reassessment it if adds space, converts a building to a new use, or renovates it to make it like new. The property's assessed value is increased to reflect the value added by the new construction.

Current law excludes some types of new construction from assessment. One of these existing exclusions applies to earthquake safety modifications that are required by local laws. Only buildings with walls made of unreinforced masonry (such as brick) are eligible for this exclusion, and the exclusion is limited to 15 years. Existing state law also requires cities and counties in earthquake-prone areas of the state to identify potentially hazardous buildings with unreinforced masonry walls and to establish programs to reduce or eliminate those hazards.

Proposal

This constitutional amendment would authorize the Legislature to exclude from assessment future earthquake safety modifications made to any type of existing building, including those constructed of materials other than unreinforced masonry. This exclusion would be effective until the property is sold, and the modifications need not be required by any local law. Earthquake safety improvements that are required for unreinforced masonry buildings would continue to receive the existing 15-year exclusion.

Fiscal Effect

If the Legislature fully implements the new exclusion, it would reduce local property tax collections, beginning in 1990–91. The property tax revenue loss could be millions of dollars per year. Most of this revenue loss probably would occur when buildings are renovated or converted to new uses. This is because these types of projects generally add substantial value to property, and part of that value would not be taxable as a result of this measure. Some of this revenue loss may be offset. This would occur to the extent that the new exclusion results in safety modifications that prevent damage that would reduce assessed value after future earthquakes.

Cities, counties, and special districts would bear approximately two-thirds of the revenue loss. The remainder of the loss would affect school and community college districts. Under existing requirements of the State Constitution, the state may have to replace these lost school district revenues. Whether this occurs in any year will depend upon the formula used to determine the state funding guarantee for K–14 education.

For text of Proposition 127 see page 74

Earthquake Safety. Property Tax Exclusion. Legislative Constitutional Amendment

127

Argument in Favor of Proposition 127

Much of the burden of making California safe from the dangers of earthquakes falls on the shoulders of the owners of potentially dangerous buildings. Often those owners did not know about the dangers when they bought; in fact, many engineers did not know until recently about some of the potential dangers. We learn from each earthquake.

A fundamental lesson from the October 17, 1989 earthquake is that it's much less expensive to strengthen buildings than to pay for the consequences of economic disruption, demolition, rebuilding, and even death. The message from the quake to owners of buildings is clear: strengthen them or lose them; strengthen them or face the liability for damage they may cause. The message from the state to owners has not been so clear: strengthen for seismic safety, but we'll tax you if you do.

The very least we can do is to remove some of the disincentives to seismic safety. This amendment is a start, by freeing the owner from the double burden of the cost of seismic strengthening and the increased property tax burden from reassessment. The owners, however, do not lose the increased value when they resell. The insignificant loss of property tax revenue in the short term is a small and fair price to pay for long-term earthquake safety.

A "yes" vote on this measure will provide an incentive to owners for seismic strengthening of California's hazardous buildings.

DON ROGERS
State Senator, 16th District

BARBARA CRAM RIORDAN
Chairman, California State Seismic Safety Commission

No argument against Proposition 127 was filed

128 Environment. Public Health. Bonds. Initiative Statute

Official Title and Summary:

ENVIRONMENT. PUBLIC HEALTH. BONDS.
INITIATIVE STATUTE

- Requires regulation of pesticide use to protect food and agricultural worker safety.
- Phases out use on food of pesticides known to cause cancer or reproductive harm, chemicals that potentially deplete ozone layer.
- Requires reduced emissions of gases contributing to global warming. Limits oil, gas extraction within bay, estuarine and ocean waters. Requires oil spill prevention, contingency plans.
- Creates prevention, response fund from fees on oil deliveries.
- Establishes water quality criteria, monitoring plans. Creates elective office of Environmental Advocate.
- Appropriates $40,000,000 for environmental research.
- Authorizes $300,000,000 general obligation bonds for ancient redwoods acquisition, forestry projects.

**Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:**

- Annual state administrative and program costs of approximately $90 million, decreasing in future years; partially offset by $10 million increased annual fee revenue.
- Local governments would incur $8 million one-time cost; $5 million to $10 million annually, decreasing in future years.
- State General Fund to incur one-time $750,000 appropriation in 1992–93 for Office of Environmental Advocate, future office administrative costs unknown; $40 million for environmental research grants.
- If all bonds authorized for ancient redwood acquisition, forestry projects were sold at 7.5 percent interest and paid over the typical 20-year period, General Fund would incur approximately $535 million in costs to pay off principal ($300 million) and interest ($235 million).
- Estimated average annual costs of bond principal and interest would be $22 million.
- Per-barrel fee on oil would increase revenues by $500 million by 1996–97, used to pay oil spill prevention/clean-up costs. Indefinite deferral of potentially $2 billion in future state oil and gas revenues resulting from limits on oil and gas leases in marine waters.
- Indirect fiscal impact could increase or decrease state and local government program costs and revenues from general and special taxes in an unknown amount. The overall impact is unknown.

Analysis by the Legislative Analyst

Background

The state and local governments in California have developed a number of programs to address environmental issues.

Pesticides and Food Safety

Many foods grown in California are treated with pesticides to control bugs, molds, and other produce-damaging pests. The California Department of Food and Agriculture (DFA) regulates the sale and use of pesticides in California. Among other things, the regulations govern (1) the manner in which the pesticide may be applied to crops and (2) the amount of pesticide allowed to remain in or on food once it is harvested.

To enforce these regulations, the DFA tests about 17,000 samples of over 200 different kinds of produce. Produce that violates the requirements are destroyed. In addition, the state Department of Health Services assists the DFA in evaluating the health risks of people being exposed to pesticides, and enforces food safety laws to protect consumers from eating contaminated or mislabeled foods.

Air Pollution Emissions

The amount of "greenhouse gases" in the air has increased as a result of several factors. These include: (1) burning fossil fuels (oil, coal and natural gas) for energy, (2) clearing forests for industrial or residential use, and (3) polluting the air with industrial or motor vehicle emissions. Greenhouse gases may warm the earth's atmosphere and ultimately could cause significant changes in climate. Chlorofluorocarbons (CFCs), which are used as coolants, insulation, solvents, and for other industrial purposes, can damage the earth's ozone layer when they escape into the air. Damage to the ozone layer subjects plants, animals and humans to more of the sun's ultraviolet rays.

Federal law requires producers to cut CFC sales in half by 1998. The United States, however, recently signed an international agreement which calls for a complete phaseout of all CFC production by the year 2000. The federal government plans to update its regulations by the end of 1990 to reflect this agreement. Current state law does not regulate CFCs but requires that the state achieve certain air pollution reduction goals within a 20-year period. These laws require reductions in carbonmonoxide and nitrogen dioxide levels, as well as reductions in some other air pollutants within specific, heavily polluted areas of the state.

Redwoods Preservation and Reforestation

California contains about 19 million acres of forestland that can support logging operations. This total forestland includes about 1.7 million acres of redwood forests composed of (1) about 1.5 million acres that have been logged previously (currently managed as second-growth forests) and (2) about 208,000 acres of virgin and partially cut stands considered to be old-growth forest. About 86,000 acres of these old-growth redwoods are in state and national parks, wilderness areas, or other areas where logging is prohibited. The remaining 122,000 acres generally comprise private stands of redwoods that currently are being logged, or could be logged in the future.

Loggers use different methods to harvest timber. These methods include clearcutting, which involves cutting all the trees on a site at one time, and the selection method, which involves periodically cutting selected trees on a site. Regardless of which method is used, the timberland owner must ensure that a specified minimum number of trees are growing on the land within five years of concluding logging operations. The California Department of Forestry and Fire Protection (CDFFP) regulates logging activities on California's state-owned and private timberlands.

Marine and Coastal Resources Protection

Currently, there is substantial oil drilling and oil transportation along some portions of the state's coastline. In addition, urban growth and industrial activity near California's coastal waters have increased the amount of pollution which ultimately reaches the state's marine waters through runoff or industrial and municipal discharge.

Oil Drilling and Spill Cleanup. The state grants leases or and receives significant revenues from private oil and gas development on state tidelands and submerged lands that extend to three miles offshore. The State Lands Commission (SLC) has an extensive regulatory program designed to prevent spills at offshore drilling platforms, marine terminals, processing facilities, and pipelines within its jurisdiction. The Department of Fish and Game (DFG) directs the overall operations of all state agencies involved in responding to an oil spill. For the actual cleanup work, the DFG attempts to make the responsible party pay for the cleanup. If the responsible party is unable to pay for cleanup, the DFG may use funds recovered from prior cleanups and civil fines.

Marine Water Quality. The State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards regulate the discharge of wastes into state waters. This regulation involves a variety of activities including water quality standards development, water quality monitoring, and permitting of dischargers. Permitted dischargers currently pay an annual fee for their permits. Revenue from the fee partially supports the boards' regulatory programs.

State Environmental Laws

The DFA coordinates state pesticide policy and enforces pesticide laws. Three other state agencies are responsible for the development and coordination of state environmental policies as follows:

- The Environmental Affairs Agency establishes policies and coordinates state environmental programs related to air and water quality and solid waste disposal.
- The Resources Agency oversees forestry and wildlife programs, management of state lands, and other environmental activities.
- The Health and Welfare Agency oversees the program of the DHS, including drinking water regulation, toxic materials handling and disposal, and various environmental health assessment and enforcement programs.

Proposal

This measure makes significant changes to existing law regarding pesticides and food safety, certain air pollution emissions, old-growth redwood forest preservation, marine and coastal resources protection, and the coordination and enforcement of state environmental laws. These changes include:

- A phased-in total prohibition on the use on foods of pesticides containing any ingredient which may cause cancer or reproductive harm.
- Adoption and implementation of a new state plan which mandates statewide reductions in the emissions of greenhouse gases and development of a program to phase out the use of CFCs.
- Authorization to sell $300 million in bonds to purchase old-growth redwood forests and to fund tree-planting programs.
- A permanent statewide ban on new leases for oil and gas development in the state's coastal waters.
- A new program and funding mechanism for cleaning up oil spills off the coast of California.
- Accelerated deadlines for additional treatment of wastes that are discharged into water; development by coastal counties of stormwater management plans; and implementation of pollution prevention plans by certain waste dischargers.
- Creation of a new elective office of the Environmental Advocate with responsibility for overseeing the implementation of the measure and for enforcement of all of the state's environmental laws.

Pesticide Regulation. This measure requires that stricter standards be used to determine if pesticides may be used on food products. Under current law, pesticides that contain an *active* ingredient (the component of a pesticide that kills pests) that is known to cause cancer or reproductive harm may not be used on food unless the DFA determines that the pesticide will be used in a manner that poses no serious health risk. Under current law, the DFA does not regulate inert ingredients (the component that carries the active ingredient) in pesticides based on the risk of cancer or reproductive harm. In contrast, this measure would ban the use on food of any pesticide containing a chemical that is known to cause cancer or reproductive harm, regardless of the manner in which the pesticide would be used, and regardless of whether the chemical is present in the active or inert component of the pesticide.

This ban would take effect in two to five years, depending on whether it is the active ingredient or the inert ingredient in a pesticide that contains a chemical that is known to cause cancer or reproductive harm. However, if the manufacturer of a pesticide with active ingredients known to cause cancer or reproductive harm demonstrates that banning the pesticide would result in severe economic hardship to the agricultural industry, the measure allows the state Director of Health Services to postpone banning specific uses of that pesticide for up to three additional years.

The measure also requires that stricter standards be used to determine the amounts of pesticide residue that may remain on food based on *all* potential serious human health effects, such as debilitating disease or injury. The measure prohibits residues of *active* ingredients on food unless they pose "no significant risk" to human health, and, in some cases, makes more restrictive the method used to determine "no significant risk" than the method currently

used. In addition, the measure prohibits *inert* ingredients from being used on foods, unless the ingredients pose no significant risk of debilitating disease or injury. Current law does not specify limits on the amount of inert ingredients that may remain on food. Foods—including foods shipped into the state from outside California—that contain any residue of a banned pesticide or a residue that exceeds the acceptable limits could not be sold in the state. Finally, the measure requires the DFA to establish a program to collect and dispose of any pesticides that are banned under the measure.

In addition, the measure transfers from the DFA to the DHS the responsibility for evaluating pesticide health risks and setting pesticide exposure limits and other health standards. The measure also prohibits the DFA from allowing a pesticide to be used in a manner that conflicts with regulations adopted by the DHS. Finally, the measure expands the information that the DFA must provide to the public before the department allows a pesticide to be used in California.

The DFA currently allows about 2,300 different pesticide products to be used on food. At least 350 of these pesticide products would be banned under the provisions of the measure. The effect on agricultural production of banning these products would depend on the degree to which farmers are able to find, within the timeframe set out in the measure, effective substitute pesticides for those banned by the measure or to use economical alternative methods of producing crops.

Air Pollution Emissions. The measure imposes new air emissions standards and other requirements. Among other things, the measure:

1. *Greenhouse Gases.* Requires the California Energy Resources Conservation and Development Commission (CEC) and the Air Resources Board (ARB) to develop and adopt, by January 1, 1993, a plan to reduce greenhouse gases. The measure does not define the specific components of the plan but requires that the plan must (a) reduce greenhouse gases to the "maximum feasible" extent and (b) require net reductions of carbon dioxide emissions from the 1988 levels of 20 percent by January 1, 2000 and 40 percent by January 1, 2010. These percentages can be adjusted to reflect differences in the population growth rate between California and the nation. The measure requires all state and local agencies to adopt regulations to carry out the plan.

Meeting the measure's carbon dioxide requirements would necessitate substantial reductions in the amount of fossil fuel (oil, gas, and coal), which is used in transportation, electrical power generation, and industry. The extent of these reductions on these sectors of the economy would depend upon the specific provisions which are incorporated into the plan.

2. *CFCs.* Requires the ARB to develop a regulatory program to phase out CFCs by 1997, and specifies some intermediate restrictions on CFC use and recycling. Individuals or corporations may petition for extensions of the deadlines on the intermediate and final restrictions. The measure requires the state to establish and administer a program, beginning January 1, 1993, mandating the installation and proper use of CFC recycling equipment by mechanics who service vehicular air conditioning systems.

3. *Recycled Paper Products.* Requires state agencies and most local governments (cities, counties, school districts, and community colleges) to grant a 10 percent bid preference for companies selling recycled paper products. The bid preference allows these companies to be awarded a contract, even if their bid is as much as 10 percent higher than the lowest bid offered by a competitor that is not selling products made with recycled paper. The measure also repeals a $100,000 per-contract ceiling on the amount of the preference payable under existing law. The measure requires the state to reimburse local governments for the difference in price paid due to the preference.

4. *Trees.* Requires any person who constr[illegible] a[illegible] residential or nonresidential project to plant one tree for every 500 square feet of the project. The measure does not define "project." As a result, the number of trees required for planting is unclear. For example, if "project" means the surface area of the foundation of a building, plus the floor space on each level of a multistory building, the measure could require thousands of trees for one tall office building. If "project" means only the foundation area, then the measure would require fewer tree plantings.

Redwoods Preservation and Reforestation. The measure authorizes the state to sell $300 million in general obligation bonds to acquire stands of old-growth redwoods ($200 million) and to support urban forestry projects and rural reforestation programs ($100 million).

In addition, the measure imposes a one-year moratorium on logging in any stand of old-growth redwoods that is 10 acres or larger and which previously has never been logged. After this one-year moratorium, the measure would prohibit clearcutting of old-growth redwoods forests, but would allow selective cutting of these forests.

Coastal Drilling. Currently, state law prohibits *new* oil and gas development in most of the state's coastal waters. In addition, the State Lands Commission (SLC) has prohibited new oil and gas leases in the remaining coastal waters. This measure prohibits any new oil and gas leases in the state's coastal waters, marine bays, and estuaries. The measure allows a suspension of the prohibition in the event of a federal energy emergency.

Oil Spill Prevention and Cleanup. The me[illegible] re[illegible] prohibits the state from issuing or renewing, after January 1, 1992, any lease for a facility located on state tidelands that is a potential source of oil spills, unless the SLC has adopted an oil spill prevention plan. The measure requires oil facilities and local agencies along the coast to develop oil spill contingency plans. The measure also requires the DFG to direct all state activities relating to oil spill response, including enforcement of new civil penalty provisions.

To fund oil spill cleanups, the measure creates the Oil Spill Prevention and Response Fund and requires the SLC to collect revenues and administer the fund. The SLC is required to impose a fee of up to 25 cents on each barrel of oil traveling through state waters by tanker or pipeline, so that the fund reaches $500 million within six years. The measure requires the Attorney General to take action to recover from parties responsible for oil spills any money spent from the fund for cleanup or other response costs.

Marine Water Quality. The measure makes several changes in the state's water quality regulation programs regarding marine bays, estuaries and coastal waters. The measure requires:

- Certain industrial waste dischargers to develop and implement pollution prevention plans designed to reduce production of water pollutants.
- Coastal counties to develop stormwater management plans to minimize runoff that pollutes marine waters.
- The SWRCB and sewage treatment facilities to meet a variety of accelerated deadlines for improving water quality. These improvements already are required by federal or state law.

In addition, the measure requires the DHS to id[illegible]ify threats to the public health from contaminated fish and contaminated waters that are used for swimming. The DHS is required to set standards to protect the public health from contaminated fish and ocean waters, and to take any

actions necessary to warn and protect the public regarding waters and fish that pose a public health threat.

Environmental Advocate and State Environmental Law Enforcement. The measure creates the Office of the Environmental Advocate in the executive branch of the state government, to be headed by a partisan elected official chosen in the November 1992 statewide election. The advocate will oversee the implementation of this measure and the enforcement of all state environmental protection and public health laws. The advocate may sue or pursue administrative action to ensure compliance with this measure or other environmental protection and public health laws. The measure also provides legal mechanisms by which public officials and individuals may seek to enforce the provisions of the measure.

In addition, the measure creates a seven-member California Council on Environmental Quality (CCEQ) as part of the office, with the advocate as council chairperson. The council will administer a competitive research grants program on (1) alternatives to pesticides in agriculture, (2) compliance with the other environmental requirements in the measure, and (3) methods to reduce the amount of toxic chemicals produced in the state.

Fiscal Effect

The more significant governmental costs and revenues that would result directly from this measure are summarized below.

Administrative and Program Costs. This measure would result in identifiable annual state administrative and program costs of approximately $90 million. These costs would be offset partially by increased annual fee revenue of about $10 million. Local governments would incur one-time costs of up to $8 million, and annual costs in the range of $5 million to $10 million. The annual costs to the state and local governments would decrease over time. These costs would result from activities related to pesticides and food safety; air pollution, global warming and ozone protection; and oil spill prevention and cleanup, water quality and waste discharges.

The measure also makes one-time General Fund appropriations of (1) $40 million for environmental research grants in 1990–91 and (2) $750,000 to the Office of the Environmental Advocate for administrative costs in 1992–93. The administrative costs of the office in future years is unknown.

Bond Costs. The state would incur costs for the bonds sold to acquire stands of old-growth redwood trees and to support urban and rural forestry programs. These costs would total about $535 million to pay off the principal ($300 million) and interest ($235 million), assuming an interest rate of 7.5 percent. The average payment from the state's General Fund would be about $22 million per year, over a period of about 20 years. The state would incur about $4 million in annual costs to administer the bond program. These administrative costs would be paid from the bond funds.

Oil Spill Prevention and Response Fee Revenues. The per-barrel fees on oil required by this measure would result in total revenues of $500 million by 1996–97. These revenues would be used to pay for oil spill prevention, cleanup, and related state administrative costs.

State Tidelands Revenues. Currently, oil and gas development is prohibited in California's coastal waters. In some areas this ban results from state administrative action and in other areas from the enactment of state law. Consequently, this measure's ban on new oil and gas development would have no immediate effect on state oil revenues. In the absence of this measure, however, the administrative ban could be lifted and the state could receive offshore oil revenues from some areas over many years. The total amount of this potential revenue is unknown, but could be up to $2 billion. In addition, by making permanent the existing state law bans on drilling in other areas of the coast, some of which expire on January 1, 1995, the measure could result in the state forgoing additional unknown oil revenues.

Timber Harvesting Revenues. This measure could increase or decrease the revenue that the state receives from various taxes, depending on the effect of the measure on the net value of harvested timber. In addition, the measure could result in decreased revenue to local governments to the extent that lands acquired under the measure no longer would be assessed property taxes.

Potential Indirect Fiscal Impacts

In addition to its direct fiscal impacts on state and local governments, this measure could have a variety of *indirect* fiscal impacts. This is because the private sector of the California economy would be required to make substantial changes in order to comply with the measure's provisions. These changes could increase or decrease state and local government costs of providing programs and services and revenues from general and special taxes.

Examples of the measure's provisions that could have an indirect fiscal impact on state and local governments include:

- Mandated reductions in carbon dioxide emissions which will result in reduced use of fossil fuels for transportation, electrical generation, and other economic activities.
- Pesticide use restrictions which could increase the cost of producing some agricultural crops if farmers cannot find economical alternatives for controlling pests.
- Pesticide/food safety provisions and water/air quality requirements which could reduce the number of Californians who experience adverse health effects such as cancer or respiratory ailments.
- Restrictions on oil drilling and increased requirements for oil spill prevention and response which could (1) reduce the risk of a major oil spill along the coast and (2) have an impact on economic activities along the coast.

These changes could affect such factors as business costs and profits, and consumer prices and demand for various goods and services, thus indirectly affecting state and local government costs and revenues. The overall net impact of these changes is unknown and would depend on, among other things, (1) the specific elements that are included in plans required by the measure and (2) the manner in which various sectors of the state's economy adapt to the measure's new requirements and restrictions.

For text of Proposition 128 see page 74

128 Environment. Public Health. Bonds. Initiative Statute

Argument in Favor of Proposition 128

Proposition 128 is the BIG GREEN initiative.

It will protect us, and especially our children, from toxic chemical pollution of our air, water and food supply. It will save billions of dollars in health care and energy costs. It was written by California's well-respected major environmental organizations, and is supported by leading California health care professionals, scientists, farmers, business and labor leaders.

It is opposed by the chemical and pesticide industries and big agribusiness.

Proposition 128 deals with URGENT HEALTH ISSUES that need addressing. If we don't take responsible action NOW, the problems will continue to get worse. WE OWE A CLEAN AND HEALTHY ENVIRONMENT TO OUR CHILDREN.

Here's what Proposition 128 will do:

- PHASE OUT CHEMICALS THAT DESTROY THE OZONE LAYER which protects us from skin cancer, and reduce carbon dioxide that threatens global warming;
- Phase out the use of pesticides on our food which have already been PROVEN to cause cancer or birth defects, and require that safer alternatives be used;
- PROTECT OUR DRINKING WATER and coastal waters from toxic chemical contamination. It sets tough new sewage control and health standards;
- Protect our ancient redwood forests, and plant millions of new trees to reduce carbon dioxide;
- Requires oil companies to establish an oil spill clean-up and prevention fund, to protect the coast and to ensure that an Alaskan oil spill disaster doesn't happen here;
- Elect an independent Environmental Advocate with tough powers to crack down on polluters and make government and corporate bureaucrats comply with environmental protection laws.

The pesticide and chemical industries say we can't afford to clean up California.

We can't afford not to.

In Southern California every year, we pay $9 billion in extra sick days and medical bills caused by air pollution. The National Center for Health Statistics issued a study in 1985 stating the overall medical costs for cancer in California alone are over $7 billion annually.

Pesticides have contaminated more than 3,000 drinking water wells throughout the State. Sewage and toxic waste are pumped into the oceans, and fish and marine life are contaminated by toxic chemicals. 90% of our ancient redwoods have already been cut down. An epidemic of skin cancers will happen because of the growing hole in the ozone layer.

PROPOSITION 128 IS REASONABLE AND FEASIBLE. It allows time for industry to develop and phase in alternatives. In fact, many alternatives are already available. It provides $40 million for research on safer substitutes.

PROPOSITION 128 IS COST-EFFECTIVE.

The interest of Proposition 128 is our health—to protect us from toxic chemicals.

Our children have a right to a clean environment, free from toxic chemical pollution.

WE OWE IT TO THEM, for their health and their future. WE OWE IT TO OURSELVES.

VOTE YES ON PROPOSITION 128.

DR. JAY HAIR
President, National Wildlife Federation

LUCY BLAKE
Executive Director, California League of Conservation Voters

DR. HERB NEEDLEMAN, M.D.
Member, American Academy of Pediatrics, Committee on Environmental Hazards

Rebuttal to Argument in Favor of Proposition 128

As university scientists and doctors whose life work is ensuring public health, we share the concerns for safe water, air and food. But PROPOSITION 128 is NOT THE WAY.

C. Everett Koop, M.D., U.S. Surgeon General 1981–89, agrees. He says:

"I have spent my life admonishing Americans to do things to protect and enhance their health.

"Public policy should be based on sound science, NOT SCARE TACTICS. If I thought this proposition would protect the health of mothers and children, as its proponents claim, I'd be with them. I'm not. Proposition 128 would NOT PROTECT CALIFORNIANS' HEALTH."

Let's examine THE FACTS:

- Proposition 128, dealing with many complex scientific and health issues, was written by politicians and lawyers.
- The National Cancer Institute reports cancer rates have decreased or stabilized, except for those related to personal behavior, such as smoking.
- Proposition 128's restriction of carbon dioxide emissions has NOTHING TO DO WITH SMOG.
- There are NO PROVEN human cancer-causing pesticides allowed on foods in California.
- The National Academy of Sciences recommends we eat more fruits and vegetables to reduce the risks of cancer and heart disease. But 128 would counter that advice by INCREASING PRICES 30% and seriously reducing supplies of these healthy foods.

Proposition 128 deals with too many complex issues, and would result in higher food, water and energy prices, more bureaucrats, more lawsuits and HIGHER TAXPAYER COSTS.

And still not make us or our children any healthier.

Read Proposition 128. VOTE NO!

WALLACE I. SAMPSON, M.D.
Stanford University School of Medicine

DR. JUDITH S. STERN
Professor, Department of Nutrition
University of California, Davis

STEPHAN S. STERNBERG, M.D.
Sloan-Kettering Institute for Cancer Research

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Environment. Public Health. Bonds. Initiative Statute 128

Argument Against Proposition 128

All Californians are concerned about our environment but Proposition 128 COSTS TOO MUCH, TRIES TO DO TOO MUCH AND MAY CAUSE MORE PROBLEMS THAN IT SOLVES. We urge you to VOTE NO.

IT COSTS TOO MUCH

The INITIAL ESTIMATES by the non-partisan independent Legislative Analyst said that Proposition 128 would cost nearly $3 BILLION with *"ADDITIONAL UNKNOWN COSTS"* to state and local taxpayers. Since then, independent non-government economic experts estimate that costs and lost revenue could be $12 BILLION ANNUALLY.

NO FUNDING SOURCE

Californians can't afford that price tag—especially since Proposition 128 HAS NO FUNDING PROVISION. That means HIGHER TAXES or SEVERE CUTS IN essential SERVICES.

HIGHER FOOD AND ENERGY PRICES

Hardly anyone denies that the new regulations proposed by Proposition 128 would result in higher costs for food, electricity and gasoline. Some estimates indicate FOOD PRICES INCREASING BY 30%, electricity UP 20% and gasoline UP $.60 per gallon! Californians on fixed incomes, seniors, small businesses, single parents and the poor would be hardest hit.

NEW STATE BUREAUCRACY

Proposition 128 would create an entirely NEW STATE BUREAUCRACY with a budget of OVER $40 MILLION! It has been widely reported that Tom Hayden, an author of Proposition 128 will run for Environmental Advocate, a position the initiative would create. If elected, Tom Hayden would head a whole new Sacramento bureaucracy employing hundreds of new lawyers, consultants and bureaucrats at a cost of millions of additional taxpayer dollars. Proposition 128 would give broad authority over all environmental issues to a single individual—independent from and more powerful than the Governor, the Legislature and local governments—with a multi-million dollar annual budget. POLITICIZING THE ENVIRONMENT IS NOT THE WAY TO SAVE IT!

MORE LAWSUITS

This initiative would create the potential for thousands of new lawsuits against state and local governments. Cash penalties and lawyers fees would have to be paid for by taxpayer dollars. The BOUNTY PROVISION of this initiative would allow members of radical groups like EARTH FIRST to personally share in any awards from successful lawsuits.

MAKES BUSINESS NON-COMPETITIVE

California's businesses, small and large, forced to comply with hundreds of new government regulations, would be at a competitive disadvantage with their counterparts in other states. Proposition 128 would require such extreme environmental regulations that it would GIVE FOREIGN COUNTRIES major ADVANTAGES over California businesses.

PROPOSITION 128 TRIES TO DO TOO MUCH

Proposition 128 is 39 pages and more than 16,000 words long. Clearly we need to protect California's environment. But we must take a rational approach, one that examines issues concerning California's resources—air, water, forests, food and coastline—independently. There are too many important issues in Proposition 128 to be voted on together. It should be split into separate pieces so the issues can be voted on separately.

Protecting the environment is an absolute necessity, BUT PROPOSITION 128 COSTS TOO MUCH, TRIES TO DO TOO MUCH AND MAY CAUSE MORE PROBLEMS THAN IT SOLVES!

Proposition 128 is WELL-INTENDED but FATALLY FLAWED.

VOTE NO ON PROPOSITION 128

BARBARA KEATING-EDH
President, Consumer Alert

AL STEHLY
Family Farmer

LARRY McCARTHY
President, California Taxpayers' Association

Rebuttal to Argument Against Proposition 128

THREE THINGS ARE VERY CLEAR:

- Big Green (128) is a battle for the health of Californians, especially our kids and grandchildren;
- The chemical and pesticide industries, and their allies are leading the fight to defeat Big Green;
- We should do everything possible to protect ourselves and our children from chemicals that cause cancer and birth defects.

BIG GREEN WILL PROTECT OUR HEALTH NOW AND IN THE FUTURE.

- It is tough and enforceable—with strong penalties and no loopholes. It stops the use of known cancer-causing pesticides within 2–8 years, and chemicals destroying our ozone layer within 7 years.
- The chemical and pesticide industries say government is doing enough. The truth is government hasn't done enough. 128 deals with one issue: stopping the pollution of our water, air and food.
- They say it costs too much. That's nonsense. And they don't talk about the cost of pollution to our health and the economy.
- Their claims about food prices are simply false—another example of chemical and pesticide companies crying wolf.
- An independent Environmental Advocate will enforce environmental laws and fight bureaucratic inaction.
- 128 funds research to develop alternatives to harmful chemicals.

Who's really trying to protect your health? The environmental and health specialists supporting 128? Or the chemical and pesticide industries opposing it?

LET'S DO WHAT WE KNOW IS RIGHT.

VOTE YES ON 128.

DR. HERB NEEDLEMAN, M.D.
Member, American Academy of Pediatrics Committee on Environmental Hazards

DR. JAY HAIR
President, National Wildlife Federation

MICHAEL PAPARIAN
State Director, Sierra Club California

129 Drug Enforcement, Prevention, Treatment, Prisons. Bonds. Initiative Constitutional Amendment and Statute

Official Title and Summary:

DRUG ENFORCEMENT, PREVENTION, TREATMENT, PRISONS. BONDS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE

- Statutory changes: commencing 1991, appropriates up to $1.9 billion over next eight years to state, county, city governments for drug enforcement, treatment, and gang related purposes.
- Authorizes issuance of $740,000,000 of general obligation bonds for drug abuse, confinement, and treatment facilities.
- Amends state Constitution to provide that specified provisions relating to rights of criminal defendants do not abridge right to privacy as it affects reproductive choice.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- No additional revenues result from this measure.
- Total General Fund costs of $1.2 billion for transfers to the Anti-Drug Superfund between 1990–91 through 1993–94.
- From 1994–95 through 1997–98 it is not clear whether any funds would be transferred from the General Fund to the Superfund.
- If all bonds proposed by this measure are sold at an interest rate of 7.5 percent, cost would be approximately $1.3 billion to pay off principal ($740 million) and interest ($585 million), with average annual payment being approximately $55 million.
- Additional annual costs of tens of millions of dollars for state and local governments could arise for operation of new correctional facilities.
- Additional costs resulting from increased criminal arrests and convictions could be offset by increased funding for drug education and prevention.

Analysis by the Legislative Analyst

Background

Anti-Drug Programs. The state and local governments operate many programs designed to reduce the use of illegal drugs. These programs include law enforcement, education and prevention, treatment, and research. In 1989–90, the state spent more than $1 billion in state and federal funds for these programs. The amount spent by local governments for these programs is unknown, but is probably close to $2 billion.

State Tax Laws. Most of the programs funded by the state are supported by the state's General Fund. The General Fund receives money from a number of sources, including personal income taxes, bank and corporation taxes, and sales taxes. The state's personal income and bank and corporation taxes are substantially similar to federal tax laws. Legislation enacted after this measure qualified for the November ballot brought these California tax laws into closer conformity to federal tax laws.

State Prisons. The state prison system is currently overcrowded. In July 1990, the prison system was designed to house about 51,000 inmates; however, it housed about 90,000 inmates, an overcrowding level of 76 percent. To address this overcrowding, the state has spent approximately $3 billion since 1981 to expand prison capacity. Plans for further expansion of the prison system, estimated to cost about $4 billion, would provide capacity for a total of 114,000 inmates by 1995. At that time, the inmate population is projected to be 153,000. This would result in an overcrowding level of 34 percent.

Proposition 115. In June 1990, the voters enacted Proposition 115, which specifies that the California Constitution shall not be construed by the courts to afford greater rights to criminal defendants, including minors, than those afforded by the Constitution of the United States. These rights include the right to privacy.

Proposal

In summary, this measure:

- Contains provisions which were intended to increase personal income and bank and corporation taxes by bringing California's tax laws into closer conformity with federal law. These provisions would duplicate those already enacted by the Legislature and as a result would not produce additional state revenue.
- Contains provisions which were intended to allocate $1.9 billion from the new Anti-Drug Superfund for various anti-drug programs over an eight-year period. However, the measure may actually allocate only $1.2 billion for these purposes.
- Authorizes the state to sell $740 million in general obligation bonds for the construction of new correctional facilities.

Anti-Drug Funding. The measure contains specific provisions intended to allocate a total of $1.9 billion from the Anti-Drug Superfund as follows during the eight-year

period 1990–91 through 1997–98:

- *Local Law Enforcement.* The measure allocates approximately 54 percent of the funds to county sheriffs' departments and city police departments for law enforcement and crime prevention activities related to illegal drugs.
- *Drug Treatment and Prevention.* The measure allocates approximately 36 percent of the funds to county boards of supervisors for drug treatment and prevention programs, probation supervision of offenders with drug-related problems, and prosecution of drug offenders.
- *CrackDown Task Force Program.* The measure allocates approximately 10 percent of the funds to the state Department of Justice for support of the existing CrackDown Task Force Program (a drug enforcement program operated by the state and local governments).

The measure requires that $1.2 billion be transferred from the General Fund to the Anti-Drug Superfund during the four-year period of 1990–91 through 1993–94.

In the second four-year period of 1994–95 through 1997–98, the measure requires that transfers be made from the General Fund in amounts equal to the annual Franchise Tax Board estimate of the additional revenues generated by this measure's tax changes. Because the tax changes contained in this measure have already been enacted, it is not clear whether any transfers would be made during this second four-year period. As a result, the total allocations required by the measure may only be $1.2 billion.

The measure provides that if the transfers are insufficient to fund the specified allocations, the allocations will be reduced proportionately.

The measure does not provide for continued funding for these programs after 1997–98. The measure requires that funds provided for these activities not be used to replace existing funds for these programs.

Prison Construction Bonds. The measure authorizes the state to sell $740 million of general obligation bonds to provide for the construction and remodeling of correctional facilities. General obligation bonds are backed by the state, meaning that the state is obligated to pay the principal and interest costs on these bonds. These revenues come primarily from the state personal income and corporate taxes and the state sales tax.

The $740 million in bond funds would be used as follows:

- $306 million for the construction or remodeling of prisons. This would provide space for an additional 8,000 inmates.
- $434 million for the construction of confinement and treatment facilities to house 10,000 inmates who would otherwise be housed in county jails. The measure specifies that of this amount, $264 million would be used to construct facilities to house 6,000 inmates in southern California and $170 million would be used to construct facilities to house 4,000 inmates in northern California.

Proposition 115. The measure provides that changes enacted by Proposition 115 regarding criminal rights shall not be construed to abridge the right to privacy as it affects reproductive choice.

Fiscal Effect

Tax Provisions. The tax conformity provisions of this measure duplicate changes already enacted by the Legislature, and therefore will not produce additional state revenues.

Anti-Drug Funding. The measure would result in total General Fund costs of $1.2 billion for transfers to the Anti-Drug Superfund over the period 1990–91 through 1993–94. Interest earned on funds in the Anti-Drug Superfund would be available for program allocation.

From 1994–95 through 1997–98, it is not clear whether any funds would be transferred from the General Fund to the Superfund.

Prison Construction Bonds. For general obligation bonds, the state typically makes principal and interest payments from the state's General Fund over a period of about 20 years. If all of the bonds authorized by this measure are sold at an interest rate of 7.5 percent, the cost would be about $1.3 billion to pay off the principal ($740 million) and the interest ($585 million). The average annual payment would be approximately $55 million per year.

The measure would result in additional annual costs to the state and local governments for the operation of new correctional facilities. These costs could be tens of millions of dollars annually.

Other Fiscal Effects. The increased funding for street-level law enforcement could result in additional criminal arrests and convictions. This could result in increased state and local criminal justice costs. The increased funding for drug education and prevention could reduce state and local costs in the future.

For text of Proposition 129 see page 84

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129 Drug Enforcement, Prevention, Treatment, Prisons. Bonds. Initiative Constitutional Amendment and Statute

Argument in Favor of Proposition 129

Politicians talk about fighting a war against drugs. But if this is a war, California is losing. Tired of empty promises? Ready to start fighting to win? VOTE YES ON PROPOSITION 129, THE CALIFORNIA WAR ON DRUGS.

Not only will Proposition 129 fight drugs and crime, it will also clarify ambiguous language in the criminal law that could threaten a woman's right to "choice" in California. And here's the best part: *It won't raise your taxes.*

To win the war on drugs we must fight hard on every front. Right now, California lacks the resources to win.

We don't have enough special narcotics agents hunting down the Colombian cocaine cartel's operatives in California. PROPOSITION 129 WILL ASSEMBLE HUNDREDS OF STATE AND LOCAL AGENTS IN "CRACKDOWN" TASK FORCES AIMED AT BIG-TIME DRUG SMUGGLERS.

We don't have enough police on the streets to protect our neighborhoods from gangs and drugs. PROPOSITION 129 CAN PUT OVER 2,000 MORE COPS ON THE BEAT.

We don't have enough jails and prisons to lock up drug dealers after we arrest them. PROPOSITION 129 WILL BUILD REGIONAL JAILS AND NO-FRILLS PRISONS FOR DRUG OFFENDERS ON SURPLUS FEDERAL LAND IN THE DESERT. That's where criminals belong—locked up in the desert, far away from homes and schools.

We don't have enough treatment facilities to help people who desperately want to kick the habit. PROPOSITION 129 CAN PROVIDE TREATMENT FOR THOUSANDS OF TEENAGERS, PREGNANT WOMEN, AND OTHERS TRYING TO GET OFF DRUGS.

We don't have enough education and prevention programs to keep kids from getting "hooked" in the first place. PROPOSITION 129 CAN MAKE SURE ALL OUR CHILDREN GET THE ANTI-DRUG MESSAGE THAT COULD SAVE THEIR LIVES.

Sometimes, in trying to fight crime and drugs, mistakes are made. Vague language in a new law to speed up criminal trials endangers the right to privacy in the State Constitution. That could threaten a woman's right to choose an abortion.

Fortunately, we can correct that mistake. PROPOSITION 129 KEEPS THE TOUGH CRIMINAL REFORMS. BUT IT RESTORES THE RIGHT TO PRIVACY IN OUR CONSTITUTION AND PROTECTS FREEDOM OF CHOICE.

Fighting drugs and crime isn't cheap, but PROPOSITION 129 WON'T RAISE YOUR TAXES. INSTEAD, IT WILL DEDICATE FUTURE PROCEEDS FROM RECENTLY CLOSED CORPORATE TAX LOOPHOLES FOR AN ANTI-DRUG SUPERFUND.

EVERY PENNY OF THE SUPERFUND MONEY WILL GO FOR FIGHTING DRUGS, PRIMARILY THROUGH LOCALLY-CONTROLLED PROGRAMS. STATE POLITICIANS WON'T BE ABLE TO TOUCH IT. After eight years, the program ends unless the people or the Legislature vote to continue it.

Drugs are killing our kids, ruining our neighborhoods, and poisoning our future. Proposition 129 is our chance to fight back, to stop talking and start winning, and to do it without sacrificing our basic freedoms. VOTE YES FOR THE CALIFORNIA WAR ON DRUGS!

JOHN VAN DE KAMP
Attorney General of California

GLEN CRAIG
Sheriff of Sacramento County

JOHAN KLEHS
Chairman, Committee on Revenue and Taxation California State Assembly

Rebuttal to Argument in Favor of Proposition 129

Proposition 129 is a sly gimmick from a failed campaign for governor. The price tag is $1,800,000,000 in new state appropriations *outside the voter-approved spending limit.* What's the source of the tax money? Not just corporations (as the sponsors misrepresent), but *personal* income taxpayers would be affected, too.

VOTE "NO" ON PROPOSITION 129.

Just five months ago, an overwhelming 57% of California voters adopted Proposition 115 to strengthen our criminal laws and deal swiftly with drug criminals. All 58 district attorneys in California strongly supported Proposition 115 as an effective anti-crime *and* anti-drug measure.

VOTE "NO" ON PROPOSITION 129.

Attorney General John Van de Kamp *opposed* Proposition 115, claiming it somehow affected abortion rights. His spurious claim was rejected by the authoritative Counsel to the State Legislature, numerous legal scholars, and even attorneys in Mr. Van de Kamp's own office who advised their boss that Proposition 115 posed no danger to abortion rights.

VOTE "NO" ON PROPOSITION 129.

Proposition 129 is a fraud. It's duplicative of Proposition 115, full of slothful state spending, and but another reason the state ballot is too long. The *real* crime initiative was approved by the voters in June—with tough anti-drug crime provisions and *without* a tax increase.

VOTE "NO" ON PROPOSITION 129.

Contrary to its proponents' misrepresentations, Proposition 129 will indeed raise taxes, and will it ever! Proposition 129 should be rejected because the initiative process is too important to be tampered with for partisan, political gain.

SENATOR QUENTIN L. KOPP
State Senator, Independent—8th District

RICHARD GANN
President, Paul Gann's Citizens Committee

CHIEF DARYL GATES
Chief of Police, City of Los Angeles

Drug Enforcement, Prevention, Treatment, Prisons. Bonds. Initiative Constitutional Amendment and Statute

129

Argument Against Proposition 129

VOTE NO on Proposition 129. It is too broad, too complicated, and a terrible way to run government.

This proposition would dedicate these tax revenues for specific government programs. There are very SERIOUS FLAWS in this plan.

- Proposition 129 would earmark every new tax dollar, without regard to need, economy or efficiency.

It is such IRRESPONSIBLE MANAGEMENT OF FUNDS which has catapulted this state into its present and biggest budget crisis ever.

State revenues this year increased by 7%, but earmarked and dictated spending requirements demanded higher than 7% spending growth, producing a budget shortfall.

Measures like Proposition 129 would only make state BUDGETING PROBLEMS WORSE, likely resulting in other serious program cuts or increased taxes.

Read the official ballot analysis by the Legislative Analyst:

"The tax conformity provisions of this measure duplicate changes already enacted by the Legislature, and *therefore will not produce additional state revenue.*"

"The measure would result in *total General Fund costs of $1.2 billion* for transfers to the Anti-Drug Superfund over the period 1990–91 through 1993–94." (Emphasis added)

The only way Proposition 129 can be paid for is by slashing existing state services—or *raising taxes!*

- Proposition 129 would have the audacity to take up to $1.8 BILLION in spending outside the state's constitutional spending limit, right after voters reaffirmed their support of spending limits by passing Proposition 111 on the June ballot.
- Perhaps most alarming is the inclusion of a $740 million general obligation bond for jail and prison facilities. Voters just passed a $450 million prison bond in June.

DO WE NEED ANOTHER SO SOON?

Moreover, this process is entirely inappropriate to determine the need for general obligation bonds. All oversight, prioritization and FISCAL JUDGMENT IS LOST.

- Tens of millions of dollars would be needed to staff and operate these new jail and prison facilities.

WHERE WOULD THE STATE AND COUNTIES FIND THE MONEY?

Proposition 129 is silent to this need. Do we want to vote ourselves into principal and interest DEBT OF MORE THAN $1.3 BILLION DOLLARS FOR EMPTY BUILDINGS?

Think about Proposition 129.

DOES IT MAKE SENSE to build up big new government programs and then pull the rug out from under them?

DOES IT MAKE SENSE to further bind the hands of policy and budget makers?

DOES IT MAKE SENSE to increase the costs of goods and services in California by raising taxes?

DOES IT MAKE SENSE to authorize bonds for jail facilities when there is no money to open them?

Think about it, and then VOTE NO on Proposition 129!

LARRY McCARTHY
President, California Taxpayers' Association

Rebuttal to Argument Against Proposition 129

Don't be fooled! There are no hidden taxes in Proposition 129. Proposition 129 asks Californians to do what the politicians in the legislature have refused to do:

Establish an anti-drug Superfund so local law enforcement agencies and drug treatment programs can fight—and win—the war on drugs.

The anti-drug Superfund will be paid for by future proceeds from recently closed corporate tax loopholes. No hidden taxes. No diversion of funds. No special interest giveaways. A specific answer to the biggest problem facing California.

We need Proposition 129 to keep the Legislature from taking anti-drug Superfund money for their own pet projects instead of for fighting drugs.

They've already grabbed part of the money. Proposition 129 will make them pay it back and keep them from grabbing the rest.

PROPOSITION 129 ALSO PROTECTS A WOMAN'S FREEDOM OF "CHOICE" IN CALIFORNIA. For years, a woman's right to reproductive freedom was guaranteed under the California constitution. Now, it is in jeopardy. A crime measure adopted last June raises questions that many legal scholars say could make abortion a crime and the woman who chooses to have one a criminal.

Proposition 129 resolves the legal questions and restores the constitutional right to privacy.

While politicians have given us promises and rhetoric, drugs have ravaged our communities. *California has now taken over Florida's position as the nation's number one importer of illegal drugs.* It's time we did something about it, even if the politicians won't.

Vote "Yes" on Prop 129.

JOHN VAN DE KAMP
Attorney General of California

FRANK JORDAN
San Francisco Police Chief

SUSAN KENNEDY
Executive Director, California Abortion Rights Action League

130 Forest Acquisition. Timber Harvesting Practices. Bond Act. Initiative Statute

Official Title and Summary:

FOREST ACQUISITION. TIMBER HARVESTING PRACTICES.
BOND ACT. INITIATIVE STATUTE.

- Authorizes 10-year state acquisition program, limited logging moratorium, to permit public acquisition of designated ancient forests providing wildlife habitat.
- Requires wildlife surveys, mitigation measures. Limits logging sites, including those near waterways.
- Requires state-funded compensation, retraining program for loggers displaced by new regulations, acquisitions.
- Authorizes general obligation bond issue of $742,000,000 to fund acquisition, other provisions.
- Limits timber cutting practices, burning of forest residues, on California timberlands.
- Mandates sustained yield standards.
- Imposes new timber harvesting permit fees.
- Revises Board of Forestry membership.
- Discourages foreign export of forest products. Imposes penalties for violations.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- If all authorized bonds are sold at 7.5 percent interest and paid over the typical 20-year period, General Fund will incur approximately $1.3 billion in costs to pay off bond principal ($742 million) and interest ($585 million).
- Estimated average annual cost of bond principal and interest is $55 million.
- State administrative costs of up to $10 million annually for state forestry review and enforcement programs, fully offset by revenues from timber harvesting fees.
- Such fees would also offset current state logging-related regulatory costs, thus resulting in state savings of about $6.4 million annually.
- Unknown effect on revenues from other state taxes, possible decreased revenue to local governments to extent lands acquired under measure would no longer be assessed property taxes.

Analysis by the Legislative Analyst

Background

California contains about 19 million acres of forestland that can support logging operations. Of this total:

- Two million acres are in parks, wilderness areas, or other areas where logging is prohibited.
- Nine million acres are owned by the federal government where logging is regulated by the United States Forest Service
- Eight million acres are owned either by private individuals or by the state. Logging activities on these timberlands are regulated by the California Department of Forestry and Fire Protection (CDFFP) according to rules adopted by the Board of Forestry (BOF). The regulations cover several aspects of logging operations.

Harvesting Plan Review. Logging on nonfederal lands is prohibited unless it complies with a timber harvesting plan (THP) prepared by a registered professional forester and approved by the director of the CDFFP. The THP must provide various information, including the amount of timber to be cut, the cutting method, erosion control measures, and special provisions to protect unique areas or wildlife that exist within the harvest area. The THP is valid for three years, and a separate THP must be approved for each specific piece of property that the timberland owner intends to log. The CDFFP has a total of 25 days to review the plan and to consider information provided by other agencies and the public.

Cutting Methods. Loggers are allowed to use different methods to harvest timber. Among others, these methods include clearcutting, which involves cutting all the trees on a site at one time, and the selection method, which involves periodically cutting selected trees on a site. Regardless of which method is used, the timberland owner must ensure that a specified minimum number of trees are growing on the land within five years after the logging operations.

Sales of State-Owned Timber. The state owns seven forest areas consisting of about 72,000 acres on which logging is allowed. Existing law prohibits the sale of logs from these forests to anyone who intends to process them at a mill outside the United States, unless the logs are first sawn into planks at a mill in the United States.

Proposal

In summary, this measure:

- Imposes new restrictions on logging operations on nonfederal lands.
- Imposes new restrictions on the sale of state-owned timber and state purchases of timber products.
- Authorizes the sale of $742 million in general obligation bonds to acquire old-growth forestlands, and f-- compensation and retraining of timber employees.
- Establishes new fees to cover the state's costs of regulating logging.
- Revises the membership of the BOF.
- Contains language stating how conflicts between it and two other measures on this ballot are to be resolved.

Restrictions on Logging

This measure imposes several new restrictions on logging activities on nonfederal lands. Among other things, these strictions:

- Prohibit clearcutting with limited exceptions.
- Prohibit anyone who owns more than 5,000 acres of timberland from cutting, during a 10-year period, more timber than would be replenished on their land during that period.
- Require the Department of Fish and Game (DFG) to determine if the area in which logging is proposed is within an old-growth forest or includes habitat that would be sensitive to logging operations. If the area is within an old-growth forest, the measure requires the DFG to refer the proposal to the Wildlife Conservation Board (WCB) so it may consider acquiring the forest. The measure also allows the DFG to recommend alternatives that would prevent or reduce possible harm to wildlife caused by the proposed logging operations.

Restrictions on Sale and Purchase of Timber

This measure prohibits the state from selling timber from state-owned forests to any person who exports or processes in a foreign mill any logs harvested from private lands within California. In addition, the measure prohibits the state from purchasing lumber or other forest products from persons who obtain logs from companies that process logs in, or export logs to foreign mills.

General Obligation Bonds

This measure authorizes the state to sell $742 million in general obligation bonds to (1) acquire and preserve old-growth forests (at least $710 million) and (2) create a fund of up to $32 million to compensate or retrain timber ustry employees whose pay is reduced, or job is lost, as a ult of the state acquiring and preserving forestlands. The state is obligated to pay the principal and interest costs on general obligation bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from the state personal income and corporate taxes and the state sales tax.

Forestland Acquisitions. The measure requires the WCB to use at least $710 million of the bond money to acquire old-growth forests consisting of (1) about 3,000 acres of old-growth redwoods in Humboldt County called the "Headwaters Forest" and (2) unspecified stands of virgin redwoods and other old-growth trees throughout the state. The WCB would purchase private timberlands using several criteria, including the size of the forest, the value of the property as wildlife habitat, and the extent of roadless areas within the forest. These forests would be managed as state parks, preserves, or wilderness areas. The measure allows the bond proceeds to be used to pay for all WCB and DFG costs related to the acquisitions program, including administrative costs.

Timber Industry Employee Compensation Program. This measure requires the Legislature to establish a program to provide compensation, job retraining, and job placement to timber industry employees whose pay is reduced, or job is lost, due to the forestland acquisitions funded by the measure. The measure limits compensation, when combined with earned wages and unemployment benefits, to no more than the person's actual pay during the previous year. The measure requires the Employment Development Department to administer this program and allows up to $32 on in bond funds to be used for this purpose. Any money not used for the compensation program would revert to the bond fund at the end of five years to be used for old-growth forest acquisitions.

New Fees and Enforcement Action

This measure requires the state to establish and implement a system of fees to be paid by persons submitting THPs that cover all governmental costs (both state and local) associated with reviewing forestry plans, conducting related field inspections, and enforcing the provisions of the measure. The measure also imposes new civil penalties and increases existing fines for violating logging regulations. In addition, the measure allows state or local governments, or any person acting in the public interest, to sue any person who violates these regulations.

State Board of Forestry

This measure revises the qualifications for appointment to the BOF and provides for the appointment of four of the nine members by the Lieutenant Governor instead of the Governor.

Conflicts With Other Measures on This Ballot

This measure contains language that states how conflicts between this measure and other measures on this ballot are to be resolved.

Specifically, the measure provides that if both this measure and Proposition 128 (The Environmental Protection Act of 1990) are passed by the voters, the Environmental Advocate provided for by Proposition 128 would appoint four members to the BOF instead of the Lieutenant Governor.

In addition, the measure provides that if both it and Proposition 138 (Global Warming and Clearcutting Reduction, Wildlife Protection and Reforestation Act of 1990) are passed by the voters and this measure receives more votes, it would invalidate all provisions of Proposition 138. The legal effect of this language is uncertain. This is because the State Constitution provides that only the *conflicting* provisions of the measure that receives the greater vote prevails.

Fiscal Effect

General Obligation Bonds. For these types of bonds, the state typically would make principal and interest payments from the state's General Fund over a period of about 20 years. If all of the bonds authorized by this measure are sold at an interest rate of 7.5 percent, the cost would be about $1.3 billion to pay off the principal ($742 million) and interest ($585 million). The average payment would be about $55 million per year.

Administrative Costs and Fee Revenue. Costs to administer the bond program would be paid from bond proceeds. The measure also would result in administrative costs of up to $10 million annually for state agencies to conduct new review and enforcement activities. These costs would be fully offset by revenue from the new fees paid by persons submitting THPs. In addition, these new fees would offset entirely the cost of administering existing logging regulations, thereby resulting in state savings of about $6.4 million annually.

Potential Effect on Revenues. This measure could increase or decrease the revenue that the state receives from various taxes, depending on the effect of the measure on the net value of harvested timber. In addition, the measure could result in decreased revenue to local governments to the extent that lands acquired under the measure no longer would be assessed property taxes.

For text of Proposition 130 see page 94

130 Forest Acquisition. Timber Harvesting Practices. Bond Act. Initiative Statute

Argument in Favor of Proposition 130

California's ANCIENT REDWOOD FORESTS, with giant trees more than 2000 years old, ARE BEING DESTROYED even faster than the tropical rainforests of the Amazon.

No law exists today to STOP THE CLEARCUTTING of these magnificent forests. Proposition 130 creates the law that will.

Once, more than 2 million acres of VIRGIN REDWOOD forests stood as PROUD SYMBOLS OF OUR GOLDEN STATE. Now a mere 5% remain.

The devastation of our forests by the timber companies threatens not only the big trees themselves, but also the endangered wildlife, fish and people which depend upon them for survival.

PEOPLE NEED ANCIENT FORESTS. Preserving these forests prevents flooding, protects our salmon and trout populations, and increases opportunities for family recreation.

These wondrous forests are filled with awe-inspiring ancient giant redwoods, and a spectacular variety of other plant and animal life.

PROPOSITION 130 PROHIBITS CLEARCUTTING—where the timber companies strip the forest of all its trees and then burn it, leaving California mountains raw to the elements, causing massive erosion and landslides, devastating fish and wildlife, and making tree regeneration difficult.

Proposition 130 authorizes the sale of bonds to purchase and PRESERVE ANCIENT REDWOOD AND OTHER FORESTS throughout Northern and Southern California for use and enjoyment by the public.

Proposition 130 also creates a simple requirement for all those who seek to cut down our forests; they may cut down no more than they grow. This means we will have A WOOD SUPPLY FOR THE FORESEEABLE FUTURE, and that our state will not be stripped of its forests.

Timber companies are cutting down the forests much faster than they can grow back. By requiring sustainable forestry, Proposition 130 will help PREVENT THE GREENHOUSE EFFECT OF GLOBAL WARMING by preserving big trees which absorb carbon dioxide and produce oxygen.

Proposition 130 provides jobs by guaranteeing a lasting timber supply. By restricting the export of logs to foreign timber mills, Proposition 130 HELPS KEEP JOBS HERE AT HOME.

Proposition 130 REFORMS THE STATE BOARD OF FORESTRY, making it free of industry domination. The new Board will be balanced and independent, with strong protections against conflicts of interest, to preserve our forests and serve the public interest.

Proposition 130 DOES NOT REQUIRE A TAX INCREASE.

Proposition 130 was WRITTEN BY FORESTRY EXPERTS and knowledgeable environmentalists. That is why it is supported by more than 100 environmental and civic organizations including

AUDUBON SOCIETY CHAPTERS
SIERRA CLUB
NATURAL RESOURCES DEFENSE COUNCIL
PLANNING AND CONSERVATION LEAGUE
DEFENDERS OF WILDLIFE
CALIFORNIA LEAGUE OF CONSERVATION VOTERS

It is *opposed by the big timber companies.*

Even more outrageous, the timber industry has placed another forest initiative on the ballot, written specifically to defeat Proposition 130. If their measure passes, Proposition 130 loses.

The timber industry says we can't afford to protect our ancient forests.

We can't afford not to.

If you want to SAVE CALIFORNIA'S ANCIENT FORESTS and STOP THE CHAINSAW DESTRUCTION of the oldest and largest living trees on earth, you must vote no on 138 and YES on Propo[illegible] 130.

DR. RUPERT CUTLER
President, Defenders of Wildlife

MICHAEL L. FISCHER
Executive Director, Sierra Club

DAVID PESONEN
Former Director, California Department of Forestry

Rebuttal to Argument in Favor of Proposition 130

The proponents of Proposition 130 promise the measure will "provide jobs by guaranteeing a lasting timber supply."

NOTHING COULD BE FURTHER FROM THE TRUTH!

Unfortunately, PROPOSITION 130 GUARANTEES JUST THE OPPOSITE.

Economic estimates show that Proposition 130 WOULD PUT TENS OF THOUSANDS OF CALIFORNIANS OUT OF WORK. It would create a tremendous hardship for timber workers and their families and untold numbers of Californians whose jobs are indirectly dependent on the forest products industry.

The extremists backing Proposition 130 claim the measure would take care of these displaced workers, but the fine print tells another story.

Perhaps the investment banker financing the campaign can afford to take a gamble on Proposition 130, but some of us work for a living!

VOTE NO ON PROPOSITION 130!

JOHN F. HENNING
Executive Secretary-Treasurer
California Labor Federation, AFL-CIO

There's no question: Proposition 130 "sounds" great. Everyone wants to protect California's ancient redwoods.

But that's NOT what Proposition 130 is about!

It's about throwing the lessons of more than a century of forestry experience out the window.

It's about REPLACING the CRITICAL ROLE LICENSED PROFESSIONAL FORESTERS and WILDLIFE BIOLOGISTS play with a COSTLY BUREAUCRACY. LETTING SACRAMENTO POLITICIANS make decisions on technical forestry issues on which they are not properly trained.

It's about TAXPAYERS FOOTING THE BILL FOR THE LEGAL FEES OF RADICAL ENVIRONMENTAL GROUPS in lawsuits.

Proposition 130 is SUPPORTED BY PERSONS ASSOCIATED WITH THE RADICAL ENVIRONMENTAL GROUP EARTH FIRST! and FINANCED BY A WEALTHY INVESTMENT BANKER.

Protecting our forests is an important endeavor, but PROPOSITION 130 IS BAD NEWS!

VOTE NO ON PROPOSITION 130!

SUE GRANGER-DICKSON
Wildlife Biologist

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Forest Acquisition. Timber Harvesting Practices. Bond Act. Initiative Statute

130

Argument Against Proposition 130

There is no question that California's precious forests must be protected. No one is arguing otherwise.

But Proposition 130 is simply TOO RADICAL an approach.

If Proposition 130 passes, it will:

- Reduce timber harvesting by an unprecedented 70%. PUTTING MORE THAN 100,000 CALIFORNIANS OUT OF WORK.
- Give financial incentives for special interest groups to file lawsuits against the government, resulting in THOUSANDS of LAWSUITS AGAINST the State of CALIFORNIA with TAXPAYERS FOOTING the LAWYER FEES.
- POLITICIZE the TIMBER HARVEST APPROVAL PROCESS and establish a costly new BUREAUCRACY.
- Replace the critical role licensed professional foresters and biologists play with Sacramento bureaucrats and political appointees who have little knowledge of forestry practices.
- Result in the hazardous build-up of forest debris, which leads to catastrophic fires such as the ones that recently ravaged Yellowstone Park and Southern California.
- Significantly INCREASE CONSUMER PRICES for new homes, timber and paper products.
- COST TAXPAYERS BILLIONS, according to the independent Legislative Analyst.

Not surprisingly, Proposition 130 is SUPPORTED by persons associated with the RADICAL ENVIRONMENTAL GROUP EARTH FIRST!, notorious for driving spikes into trees, vandalizing logging equipment and harassing timber workers and their families.

nd their antics don't stop there. On the national television program Minutes", Earth First! leader, Darryl Cherney, advocated terminally ill people should strap bombs to themselves and blow up dams, power plants and other structures they believe harm the environment. In fact, several members are currently under investigation for blowing up a power plant and under federal indictment for conspiring to sabotage power lines.

We must take steps to protect our forests, but not the drastic steps proposed in Proposition 130.

There is a rational alternative to Proposition 130 on the ballot. It appears on your ballot as Proposition 138, the "Global Warming and Clear Cutting Reduction, Wildlife Protection & Reforestation Act of 1990".

Proposition 138 represents a far more reasonable approach to the protection of our forests. Furthermore, it is more comprehensive.

Proposition 138 provides for the protection and enhancement of wildlife and the planting of trees in urban areas.

Specifically, Proposition 138 will:

- Ban clearcutting of old growth redwood and other old growth forests.
- Require timber harvesters reduce clearcutting in all other forests by 50% over the next five years.
- Provide for a $300 million bond to plant millions of trees in cities and other areas throughout California to help reduce global warming.
- Require timber companies to prepare long term management plans that would protect wildlife and ensure more trees are planted than cut.
- Keep harvesting practices in the hands of licensed professional foresters and biologists and away from Sacramento politicians and bureaucrats.
- Request Congress to ban the exporting of logs.

Only Proposition 138 strikes an important balance between environmental, economic and human concerns.

PROPOSITION 130 is simply TOO RADICAL an approach that would COST TAXPAYERS BILLIONS.

VOTE NO on PROPOSITION 130 and YES on PROPOSITION 138.

GERALD L. PARTAIN
Former Director, California Department of Forestry and Fire Protection

PHILLIP G. LOWELL
Executive Director, Redwood Region Conservation Council

SCOTT WALL
President, California Licensed Foresters Association

Rebuttal to Argument Against Proposition 130

The big timber companies are desperate.

They are trying to convince you that a measure SUPPORTED BY MAJOR ENVIRONMENTAL ORGANIZATIONS in California, as well as former TOP DEPARTMENT AND BOARD OF FORESTY OFFICIALS, has somehow been secretly designed by radicals!

Let's get one thing straight: Proposition 130 is written and supported by responsible, mainstream environmental organizations representing MILLIONS OF CALIFORNIANS. It will STOP THE BIG TIMBER COMPANIES from destroying our forests and will PROTECT FOREVER OUR MAGNIFICENT ANCIENT REDWOODS.

There is nothing radical about trying to PRESERVE JOBS by making sure there will be working forests twenty years from now. There is nothing shocking about wanting our children to inherit a state as golden as the one we have enjoyed.

Those who want to know more about the timber companies' greedy and destructive practices should read the November 1989 Reader's Digest article entitled *"California's Chainsaw Massacre."*

Proposition 130 provides funds to PURCHASE REMAINING OLD GROWTH REDWOOD and other forests and open them for PUBLIC ENJOYMENT AND WILDLIFE PRESERVATION. Proposition 138 does not.

Your votes on Propositions 130 and 138 depend upon WHO YOU TRUST: *the timber corporations* who have stripped our mountainsides raw or the ENVIRONMENTAL GROUPS with long records of working to SAVE CALIFORNIA'S UNIQUE NATURAL HERITAGE.

California environmental groups say *vote no on the timber industry's Proposition 138* and

VOTE YES ON PROPOSITION 130.

ROBERT VAN METER
President, Los Angeles Audubon Society

JENNIFER JENNINGS
Forest Project Director, Planning and Conservation League

JEFF DuBONIS
Executive Director, Association of Forest Service Employees for Environmental Ethics

131 Limits on Terms of Office. Ethics. Campaign Financing. Initiative Constitutional Amendment and Statute

Official Title and Summary:

LIMITS ON TERMS OF OFFICE. ETHICS. CAMPAIGN FINANCING.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

- Limits elected statewide officials to eight successive years in office; state legislators, Board of Equalization members to twelve successive years.
- Limits gifts to elected state, local officials.
- Enlarges conflict of interest prohibitions, remedies applicable to state, local government officials.
- Prohibits use of public resources for personal or campaign purposes.
- Authorizes special prosecutors.
- Establishes campaign contribution limits for elective offices.
- Provides partial public campaign financing for candidates to state office who agree to specified campaign expenditure limits.
- Substantially repeals campaign ballot measures, 68 and 73, enacted June, 1988.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Unknown level of state revenues, possibly $12 million in 1990–91 and uncertain amounts thereafter, to be generated from state income tax check-off provisions for campaign financing; corresponding unknown revenue loss to state General Fund.
- Annual General Fund contributions of $5 million for campaign matching payments beginning January 1, 1992, amounts to increase in subsequent years.
- Unknown amount of state matching payments likely to be requested under measure for campaign financing by candidates for state office.
- State General Fund administrative costs of approximately $1.5 million in 1990–91, $3 million annually for subsequent years.

Analysis by the Legislative Analyst

Background

Existing state law prohibits elected officials from participating in activities or having interests which conflict with properly carrying out their duties or responsibilities. State law limits the amount of gifts that state and local officials may accept. In addition, state elected officials are prohibited from accepting honorariums, while local elected officials may accept limited honorariums.

State law also contains restrictions on the financing of political campaigns. These provisions restrict the amount of funds that may be contributed to all candidates for state and local elective office. They also prohibit transfers of campaign funds between candidates or their campaign committees. State law also prohibits spending public funds for campaign expenses.

California law allows a state taxpayer to claim an income tax credit of up to $50 for political contributions. This tax credit will expire on January 1, 1992.

Currently, there is no limit on the number of terms that elected officials may serve.

Proposal

In summary, this measure:

- Sets limits on the number of consecutive terms that an elected state official can serve in office;
- Places restrictions on the conduct of elected officials, candidates, and staff;
- Changes existing campaign finance laws; and
- Allows candidates for state office to receive public funds if they agree to comply with limits on campaign spending.

Limits on Terms of Elected State Officials. This measure sets the following limits on the terms of elected state officials, beginning with this election:

- Two *consecutive four-year terms* for the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, and Insurance Commissioner;
- Three *consecutive four-year terms* for Members of the Board of Equalization and the Senate; and
- Six *consecutive two-year terms* for Members of the Assembly.
- After an individual has been out of office for *one full term*, he or she may serve additional terms, subject to the limits described above.

Restrictions on Conduct. This measure restricts the conduct of elected officials as follows:

- Reduces from $250 to $100 the maximum amount of gifts that *state* elected officials may accept from a single source in a calendar year. The maximum amount *local* elected officials may accept is reduced from $1,000 to $100.
- Prohibits *local* elected officials from accepting any honorariums.
- Prohibits most legislative employees from lobbying before the Legislature for 12 months after leaving employme[illegible]
- Prohibits elected state officials, some state employees, a[illegible]d state-employed consultants from using state resources for personal or political use.
- Establishes within the Office of the Attorney General a Special Investigation and Prosecution Unit. This unit will

coordinate the investigation and prosecution of elected and non-elected state officials, judges, court commissioners, and candidates for state elective office. This unit also may assist local law enforcement and prosecution agencies with investigation and prosecution activities related to local officials and candidates for local elective office.

Campaign Finance Revisions. This measure revises existing state laws restricting campaign contributions and the use of these funds for noncampaign purposes. Specifically, the measure:

- *Contribution Limits for Independent Committees.* Establishes contribution limits for committees formed to support or oppose candidates, but which are not controlled by a candidate.
- *Total State Contribution Limits.* Establishes total contribution limits on campaign contributions that can be made to state candidates by different categories of contributors during each two-year election cycle. Persons are limited to total contributions of $40,000, political committees to $100,000, and small-contributor political action committees to $400,000. Further, the measure prohibits a state candidate from accepting more than one-third of his or her contributions from contributors other than individuals (excluding political party committees), and more than one-sixth from political party committees.
- *Nonelection-Year Fund Raising.* Prohibits candidates from asking for or accepting contributions during defined nonelection-year periods.
- *Tax Credit for Campaign Contributions.* Repeals the existing personal income tax credit for political campaign contributions, effective for the 1990 tax year.

Partial State Funding for State Office Candidates. This ...asure allows state funds to be provided to candidates for ...te elective office on a matching basis, if they agree to follow campaign expenditure limits. The specific provisions of the measure include:

- *Qualification Requirements.* To receive state funds, a candidate must collect a specified minimum level of private contributions. In addition, candidates may not contribute more than a specified amount per election from their personal funds. Further, the candidate must be opposed by a candidate who has either qualified for state matching funds *or* collected a minimum level of private contributions.
- *Maximum State Matching Funds.* Each state candidate may qualify to receive up to the following maximum amounts of public funds for each election:

Office	Primary Election	General (and Other Elections)
Governor	$2,225,000	$3,600,000
Superintendent of Public Instruction	975,000	975,000
Other Statewide Officials	750,000	1,200,000
Board of Equalization	212,500	350,000
State Senate	212,500	350,000
State Assembly	125,000	200,000

The actual amount of state funds provided to a candidate is based on the amount of private funds received by the candidate. Private contributions received from sources within a candidate's district are matched at a higher rate than other contributions.

- *Expenditure Limits.* Candidates who accept state matching funds must agree to limit their campaign expenditures. These limits are equal to *twice* the amounts shown above for each office. The spending limits do not apply to expenditures made for purposes of legal defense and officeholder expenses. The spending limits on candidates who accept state matching funds are removed, however, if an opposing candidate who does not accept matching funds receives contributions or spends more than the spending limit.
- *Source of Funds.* The public funds provided to candidates would be paid for in two ways. First, the measure appropriates $5 million per year from the General Fund, adjusted for increases in cost of living and population, to help pay these costs. Second, the measure sets up a new income tax check-off program. Under this program, state income taxpayers may voluntarily designate that part of their income tax payments (up to $5 for single tax returns, and up to $10 for joint returns) be used to finance state campaign matching payments.

Administration and Enforcement. The State Fair Political Practices Commission has the primary responsibility for administering and enforcing the provisions related to public campaign financing.

Fiscal Effect

Limits on Terms of Office. This provision would not have any fiscal effect.

Source of Funds for Campaign Financing. State funds for matching payments would come from two sources: (1) an income tax check off and (2) a state General Fund contribution.

- *Income Tax Check Off—Revenue Loss.* The amount of funds that would be generated from this check off is unknown. If taxpayer participation is similar to that for the Presidential Election Fund, the annual revenues will be about $12 million in 1990–91. In future years, the amount could be higher or lower depending upon the level of funds requested in prior elections and projections of the amount needed for future elections. Because the check off reduces the amount a taxpayer owes the state, there would be a corresponding reduction in annual state General Fund revenues.
- *State Contributions—Increased Costs.* The measure requires annual General Fund contributions of $5 million for campaign matching payments, beginning in 1991–92. In the first two years, these costs would be essentially offset by savings due to the elimination of the existing personal income tax credit for political campaign contributions. In subsequent years, this offset would not occur because the tax credit expires under existing law as of January 1, 1992.

Expenditures for Campaign Financing. The amount of state funds that would be spent for matching payments in any year is unknown and depends upon several factors. These include the number of candidates requesting funds, the amount of private contributions received by these candidates and the amount of funds actually available in that year. If the level of funds requested by candidates in an election year exceeds the amount actually available, eligible candidates may not receive an allocation of matching payments, or the full amount specified in this measure.

Administrative Costs. The state will incur administrative costs of about $1.5 million in 1990–91 and $3 million annually thereafter as a result of this measure. These costs will be paid from the General Fund.

For text of Proposition 131 see page 101

131 Limits on Terms of Office. Ethics. Campaign Financing. Initiative Constitutional Amendment and Statute

Argument in Favor of Proposition 131

It's time for some big changes in Sacramento. Time to limit how long politicians can stay in office. Time to reform a political process that's out of control.

Prop. 131 will send a message from California voters: We're fed up with self-dealing, corruption and pandering to special interests by politicians. The people must be back in control.

Since 1983 a State Senator is as likely to be convicted as lose an election. Votes in the Legislature are traded for a $3,000 payment over breakfast. The S&L scandal—a bonanza of fat campaign contributions for politicians—will cost every taxpayer $2,500.

These are symptoms of a political system in which, all too often, politicians do not serve you. Rather, once in office too many serve themselves and the wealthy special interests who pay for their campaigns.

It's time to say "Enough."

PROPOSITION 131 MAKES FAIR, COMMON SENSE REFORMS THAT ARE ALREADY PROVEN WINNERS. IT WILL CLEAN UP CORRUPTION. AND IT WON'T RAISE YOUR TAXES ONE PENNY.

Proposition 131 will:

LIMIT HOW LONG POLITICIANS CAN STAY IN OFFICE.

If the President can only serve two terms, why should state lawmakers be able to hang on forever?

Proposition 131 will give people with different viewpoints, including women and minorities, a real chance.

LIMIT HOW MUCH POLITICIANS CAN SPEND ON THEIR CAMPAIGNS.

Where does a politician find $2,000,000 to run for a job that pays $44,000 a year? From special interests, that's where. An open invitation to corruption—and to expensive, dirty campaigns.

Proposition 131 will make state politicians adhere to strict spending limits.

PUT AN END TO HUGE SPECIAL INTEREST CONTRIBUTIONS.

Insurance companies, oil and chemical companies, developers and other special interests routinely pour millions into California legislative campaigns.

Proposition 131 will crack down on this outrageous influence buying with strict limits on total contributions.

PUT TEETH IN THE ENFORCEMENT OF POLITICAL CORRUPTION LAWS.

Political crimes can do just as much damage as street crimes. Accusations of corruption need swift investigation. But the Legislature refuses to fund real enforcement of the ethics laws.

Proposition 131 will establish a political corruption unit in the Attorney General's office and authorize independent special prosecutors.

ESTABLISH *VOLUNTARY* PUBLIC FINANCING AT NO COST TO TAXPAYERS.

Proposition 131 will stop Sacramento lobbyists and wealthy special interest contributors from controlling candidates. Instead, candidates who get small donations from people who actually live and work in their districts will receive matching funds from a special clean government fund.

Only those who want to contribute to the fund will do so. It won't cost one penny in additional taxes. But it will pry state government out of the clutches of special interests.

Politicians and lobbyists hate Proposition 131 because it will end their cozy back-room deals forever. But that's exactly why one million Californians signed petitions to put it on the ballot. And that's exactly why you should vote for it.

PUT THE PEOPLE BACK IN CONTROL. LIMIT POLITICIANS' TERMS. CLEAN UP STATE GOVERNMENT. VOTE YES ON PROPOSITION 131!

RALPH NADER

JOHN PHILLIPS
Chair, California Common Cause

JOHN VAN DE KAMP
Attorney General of California

Rebuttal to Argument in Favor of Proposition 131

THE LIE: 131 "won't cost an additional penny in taxes."

THE TRUTH: Proposition 131 *shifts* millions in tax dollars we now use for education, prisons, and health care into the political campaigns of California politicians. We taxpayers will be either asked to *raise taxes* or cut vital services to pick up the tab for their political campaigns.

THE LIE: 131 will "end huge special interest contributions."

THE TRUTH: This measure would *match*—dollar for dollar—at least 25% of special interest contributions made by insurance, oil and chemical company executives and land developers with *our tax dollars.*

THE LIE: 131 will "*limit*" how much politicians can spend on their campaign.

THE TRUTH: The "limit" is optional. Politicians can choose not to follow it. But if candidates for Governor do agree to the "limit," they can spend $11,700,000—with up to half of that supplied by us taxpayers.

THE LIE: 131 will "limit how long politicians can stay in office."

THE TRUTH: 131's "limits" don't affect legislators until the next century. But they get our tax dollars for the very next election!

In 1988, voters passed tough laws on campaign contributions—*at no cost in taxes.*

This June we passed more tough new laws against corruption—*at no cost in taxes.*

Measure 131 would change those new reform laws—before they've had a chance to work—spending millions of taxpayers dollars.

Vote no on 131!

W. BRUCE LEE, II
Executive Director, California Business League

WENDELL PHILLIPS
President, California Council of Police and Sheriffs

DAN STANFORD
Former Chair, Fair Political Practices Commission

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Limits on Terms of Office. Ethics. Campaign Financing. Initiative Constitutional Amendment and Statute **131**

Argument Against Proposition 131

Don't be fooled.

Before you vote, look at the fine print. All of it. Page after page, subject after subject.

When you do, you'll discover the *first* problem with Proposition 131—it contains too many subjects.

Parts of 131 may sound good, but other parts are *wrong* and represent *a step backward for real political reform.*

But instead of letting us vote separately on each subject, the backers of Proposition 131 are forcing us into voting on the whole thing.

Why? Because buried in all the fine print is a scheme allowing the politicians to use *our* tax dollars for *their* election campaigns.

$12,000,000.00 OF OUR TAX DOLLARS TO POLITICIANS

That's right. $12,000,000.00 in the first year—which isn't even an election year! In future years it will be many millions more.

California faces a massive budget crisis. Every dollar we give to politicians for their expensive campaigns means *more cutbacks in schools, law enforcement, health care and other essential services.*

Is it really fair to give tax dollars to politicians while we cut services to the aged, blind and disabled?

Worse yet, 131 allows our tax dollars to go to FRINGE EXTREMIST GROUPS LIKE LYNDON LA ROUCHE to promote their causes, no matter how much we disagree with ir views or how few votes their candidates may get.

TAX DOLLARS WON'T BUY REAL REFORM

What do we get for giving politicians our tax dollars? NOTHING!

Does 131 eliminate special interest contributions? NO! It *makes special interest contributions even more valuable by matching them dollar for dollar with our taxes.*

In fact, 131 actually *doubles* the maximum contribution large special interest PACs can make to *$10,000.00* per candidate, per year.

Does 131 impose limits on campaigns spending? Not really. Unless you think "limiting" *each candidate* for governor to $11,700,000.00 is a real limit.

And remember, *50%* of each candidate's $11,700,000.00 can come from *your tax dollars*.

131 REPEALS REAL REFORMS PASSED BY THE VOTERS

131 repeals Proposition 73, the political reforms we overwhelmingly passed in 1988. Proposition 73 imposes tough new limitations on campaign contributions and *prohibits* use of taxpayer dollars to pay for political campaigns.

Why repeal Prop. 73 when it's already working—*without* using our tax dollars? In the first half of this election year, *campaign contributions to state legislators fell by over 40%* compared to the same period in 1988.

131 MEANS MORE BUREAUCRATIC WASTE

131 mandates spending $1,200,000.00 to create a permanent "special prosecutor's" office under the Attorney General.

The truth is, if the Attorney General were doing his job, we wouldn't need a special prosecutor's office. This is just an expensive cosmetic ploy that may look good but eats up more of our tax dollars.

VOTE NO ON PROPOSITION 131

LET'S GIVE THE *REAL* REFORMS WE'VE ALREADY PASSED A CHANCE TO WORK. LET'S KEEP OUR TAX DOLLARS WORKING FOR *US*, NOT THE POLITICIANS.

VOTE NO ON 131.

DAN STANFORD
Former Chair, Fair Political Practices Commission

HOWARD OWENS
President, Congress of California Seniors

TOM NOBLE
President, California Association of Highway Patrolmen

Rebuttal to Argument Against Proposition 131

Two simple things to remember about Proposition 131: Why we need it. And why the politicians oppose it.

WE NEED TERM LIMITS

Proposition 131 limits how long politicians can stay in office. Public service shouldn't be lifetime tenure!

Sacramento legislators and lobbyists don't want term limits, because that would end their lifetime lock on power.

WE NEED CAMPAIGN REFORM

Politicians don't want campaign reform, because that gives ordinary citizens real power in who gets elected.

The anti-131 forces like the status quo, but the cost to us is *tremendous:* budget deficits, environmental pollution, traffic and growth disasters, government that doesn't work.

PROP. 131 OFFERS REAL CHANGE

Politicians controlling the campaign against 131 use scare tactics and misleading information to obscure the facts. You ‹ ›rve better.

. fact, Proposition 131 will:

- *Cut campaign spending dramatically,* while favoring small individual contributors over large special interest groups.
- *Encourage "citizen representatives" to run for office* with voluntary, public financing to compete against incumbents and lobbyists.
- *Save you money* by eliminating special interest control of spending.

Not a dime of your taxes will go to any politicians or any political group unless you say so. Public financing is purely voluntary, unlike the other ways politicians spend your taxes. And *no funds will be cut from places where we really need our taxes to go.*

Over 1,000,000 Californians signed the Clean Government Initiative because they want to derail the Sacramento gravy train.

They'll vote YES on Prop. 131. *You should, too.*

TOM McENERY
Mayor, City of San Jose

JOAN CLAYBROOK
President, Public Citizen

DAVID BROWER
Founder, Friends of the Earth

132 Marine Resources. Initiative Constitutional Amendment

Official Title and Summary:

MARINE RESOURCES.
INITIATIVE CONSTITUTIONAL AMENDMENT

- Establishes Marine Protection Zone within three miles of coast of Southern California.
- Commencing January 1, 1994, prohibits use of gill or trammel nets in zone.
- Between January 1, 1991 and December 31, 1993 requires additional permit for use of gill nets or trammel nets in zone.
- Requires purchase of $3 marine protection stamp for fishermen in zone.
- Establishes permit fees and $3 sportfishing marine protection stamp fee to provide compensation to fishermen for loss of permits after January 1, 1994.
- Directs Fish and Game Commission to establish four new ocean water ecological reserves for marine research.

Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:

- Permit fees and marine protection stamp would provide approximately $5 million to Marine Resources Protection Account by 1995.
- Compensation for fishermen who surrender gill and trammel nets between July 1, 1993 and January 1, 1994, could total up to $3.4 million, if necessary legislation enacted.
- Enforcement of measure could cost up to $1.5 million annually.
- Loss of $100,000 annually from reduced fishing license, permit, and tax revenues may result; losses offset in unknown amount by measure's increased fines.

Analysis by the Legislative Analyst

Background

California's commercial fishermen use a variety of methods to catch fish, including gill nets (which catch fish by the gills) and trammel nets (which capture fish by entangling them). These nets also trap marine mammals and fish species that the fishermen do not intend to catch.

The Department of Fish and Game is responsible for enforcing California's fishing laws and regulations. Current regulations generally prohibit commercial fishermen from using gill nets and trammel nets in California's coastal waters north of Point Reyes in Marin County. In the ocean waters of southern and central California, the use of gill nets and trammel nets is limited to commercial fishermen who hold permits authorizing their use.

In addition, current law requires commercial fishermen to hold a commercial fishing license, and, depending on the type of fish caught, various other licenses, stamps, and permits. Commercial fishermen also pay taxes on each pound of fish caught or delivered in the state. Revenue from the licenses, permits, and taxes are deposited in the Fish and Game Preservation Fund (FGPF).

Proposal

This constitutional amendment bans the use of gill nets and trammel nets, beginning January 1, 1994, in coastal waters of central and southern California. In addition, the measure (1) imposes additional fees for certain permits and marine resource protection stamps until January 1, 1995 and (2) allows that the revenue from the increased fees be used to make a lump sum payment for lost income to fishermen who turn in their gill and trammel net permits.

Prohibition on Use of Nets. This measure:

- Prohibits the use of gill nets and trammel nets from the Mexican border to Point Arguello in Santa Barbara County beginning January 1, 1994.
- Prohibits commercial fishermen from using these nets to catch rockfish in any area of the state.
- Increases the fines and penalties related to the use of gill nets and trammel nets.
- Requires the creation of four new ocean ecological reserves along the state's coast.

Increased Fees and Stamp Requirements. From January 1, 1991, through December 31, 1993, the measure imposes a new permit fee of $250 in 1991, $500 in 1992, and $1,000 in 1993 on commercial fishermen using gill nets and trammel nets in southern California. This fee would be in addition to the permit fee of $250 currently paid by all gill net and trammel net fishermen in the state. The measure also requires that most sport fishermen and the owners of certain commercial fishing vessels purchase a $3 marine resources protection stamp. Revenues from the increased permit fees and the stamps would be deposited in the Marine Resources Protection Account (MRPA), which the measure creates.

Compensation Program. The measure provides for a one-time compensation payment for lost income to commercial fishermen who surrender their gill net and trammel net permits between July 1, 1993 and January 1, 1994. Those fishermen who do not surrender their permits between these dates, or who do not give required notification to the DFG within 90 days of enactment of this measure, would not receive any compensation. The measure prohibits the payment of compensation unless the Legislature enacts enabling legislation by July 1, 1993, to implement the compensation program.

Fiscal Effect

The measure would have the following fiscal effects.

Fees and Stamp Revenues. The new permit and marine resources protection stamp fees would result in increased revenue of about $5 million to the MRPA by January 1, 1995, when the stamp requirement would expire. These revenues would be used to fund the compensation program and the costs of administering the measure. The measure requires any funds remaining in the MRPA after January 1, 1995 to be used for scientific research into marine resources within the ecological reserves created by the measure.

Compensation Program Costs. Total compensation costs for all fishermen combined could be as much as $3.4 million. Individual compensation payments would be based on each fisherman's average annual fishing income over a five-year period. The compensation costs would be incurred only if the Legislature enacts enabling legislation prior to July 1, 1993.

Enforcement Costs. The Department of Fish and Game could incur costs of up to $1.5 million annually beginning in 1995 to enforce the ban on gill net and trammel net fishing in southern California. These costs would be funded from the FGPF.

Prohibition on the Use of Nets. The ban on the use of gill nets and trammel nets could reduce the number of people fishing commercially and the number of fish brought on shore in California. Such reductions would result in an annual revenue loss of less than $100,000 from reduced taxes on catches. These losses would be offset to an unknown extent by revenues to the FGPF, primarily from the measure's increased fines.

For text of Proposition 132 see page 116

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132 Marine Resources. Initiative Constitutional Amendment

Argument in Favor of Proposition 132

A "yes" vote on Proposition 132 will stop the indiscriminate slaughter of marine mammals along the California coast by banning the use of gill nets—relentless "killing machines" made of tough monofilament mesh that is nearly invisible underwater.

Every year in California, gill nets trap and kill thousands of whales, dolphins, sea lions, harbor seals, sea otters and birds—animals that have no commercial value, but still fall victim to these deadly underwater traps that mutilate and drown any animals they ensnare.

The California Department of Fish and Game reports that in 1986–87 alone, over 6,500 sea lions, harbor seals, and harbor dolphins were trapped and killed by gill and trammel nets in California waters.

These marine mammals died needlessly. According to the U.S. Marine Mammal Commission, 72% of all fish species caught in gill nets have absolutely no commercial or economic value. They are caught and killed by the nets, then simply thrown back into the sea to rot—a terrible waste of our precious marine resources.

Gill nets strike at the heart of our sensitive marine environment, ravaging our coastline where fish spawn and grow to maturity, where whales migrate, and where sea lions, seals and porpoises live.

Gill nets that have broken free of their fishing boats can roam the seas as "ghost nets" for up to 400 years, the time it takes for their monofilament mesh to biodegrade.

Gill nets are so destructive that they have already been banned along the coasts of Canada, Oregon and Washington. Our Legislature has even banned gill nets along our northern and central coasts. But under pressure from the commercial fishing industry, the Legislature failed to extend this ban to southern California waters. Proposition 132 will finish the job.

What's worse, the Legislature can now lift the existing gill net ban in central and northern California waters at any time for any reason. Likewise, the Director of the Department of Fish and Game can lift parts of the ban for any number of "new findings"—without legislative review. Proposition 132 will make sure this doesn't happen.

Proposition 132 will:

- Ban gill and trammel nets within three miles of the southern California coastline and around the Channel Islands.
- Lock into our Constitution a permanent gill net ban along the northern and central California coasts, which only a majority vote of the people could reverse.
- Compensate commercial gill net fishermen and help them switch to less destructive fishing gear and methods.
- Establish four coastal ecological reserves for scientific marine research.

Years ago, California lawmakers had the wisdom to ban the use of dynamite for fishing because it indiscriminately killed any marine animal within range of its blast. Now it's time to outlaw gill nets, whose indiscriminate killing power is equally unacceptable.

Stop the needless and wasteful destruction of our valuable coastal resources—and put an end to a cruel and archaic fishin method where responsible alternatives exist.

Vote "Yes" on Proposition 132—A lasting environmental legacy for future generations of Californians.

ASSEMBLYWOMAN DORIS ALLEN
Chairwoman, Committee to Ban Gill Nets

STANLEY M. MINASIAN
President, Marine Mammal Fund

ANN MOSS
President, The Dolphin Connection

Rebuttal to Argument in Favor of Proposition 132

Proposition 132 is *not* about protecting marine mammals and wildlife. It is an attempt by wealthy sport fishermen and yachtsmen to monopolize fishery resources for their personal pleasure.

Proposition 132 does *not* stop the slaughter of fish and wildlife on the high seas by foreign driftnet fleets. It does *not* protect dolphins or whales. Proposition 132 affects consumers and a fishery conducted by family fishermen along the southern California coast—among the best monitored and managed fisheries in the world! If Proposition 132 passes it will increase California's imports of fish from other nations that do not regulate their fisheries to protect wildlife.

California's commercial fishermen have worked with major conservation organizations and state and federal agencies to regulate fishing gear to protect marine mammals and birds. The increasing numbers of gray whales, sea lions, seals and sea otters in California waters are testimony to the success of these cooperative efforts.

Proposition 132 supporters' allegations regarding gillnets are blatantly false. Gillnets are used safely offshore Oregon, Washington, Canada, and central and southern California; they are used in San Francisco Bay, Tomales Bay, Humboldt Bay, and the Klamath River.

Campaign records on Proposition 132 disclose that its major supporters are sportfishing organizations, exclusive yacht clubs, and tackle manufacturers who don't care about dolphins or whales. They are attempting to dupe the public into believing this initiative will protect wildlife so they can create an exclusive, private sportfishing-only club for the wealthy few. Don't be fooled. *Vote No on Proposition 132.*

BURR HENNEMAN
Former Executive Director, Point Reyes Bird Observatory

ALISON McCENEY
Fisherwoman

CRAIG GHIO
Vice President, Anthony's Seafood Grottos

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Marine Resources. Initiative Constitutional Amendment 132

Argument Against Proposition 132

To protect the ability of every California citizen to enjoy fresh, reasonably priced seafood, please vote NO on Proposition 132.

1. *Fish for Food vs. Fish for Fun*

This initiative was drafted with one objective in mind—to give the most prized fish off the Southern California coast to ocean sportfishermen—people who ocean-fish for fun—less than three percent (3%) of the state's population. The remaining 27 million Californians (97% of the state's population) who do not have the time, luxury, or desire to catch their own seafood will no longer have access to these healthy foods. Seafood is a public resource and should belong to everyone.

2. *Denies Consumers Fresh Local Seafood*

If Proposition 132 passes and safe, ecologically sound methods of catching fish are banned, the prices of fresh California seafood like halibut, seabass, shark, sculpin, barracuda, and winter supplies of pacific red snapper will almost triple at restaurants and markets.

3. *Proposition 132 Will Increase The Price Of An Ocean-only Sportfishing License 23%!*

4. *Over 30 Laws Enacted Protecting Fish and Marine Mammals.*

The Department of Fish and Game, seafood industry and environmental groups have worked together to pass dozens of laws which protect fish and marine mammals. Successful programs have been created by this broad coalition to benefit ocean resources by restricting activities during spawning and mating season, by limiting the use of fishing gear, and by providing funds for ongoing scientific research. The fishing industry seeks to protect the environment because their livelihood depends on healthy marine populations. Perhaps that's why major environmental groups don't support Proposition 132.

5. *There Is No Shortage of Fish*

Fishery and marine mammal populations are healthy. In fact, according to the National Marine Fisheries Service population levels of gray whales, sea lions and harbor seals have reached historically high levels. Landings of fish to seafood markets and restaurants remain consistent. Sportfishing magazines continue reports of great fishing. Remember, fish is a renewable resource.

6. *Working Families and Consumers*

Proposition 132 means people will lose their jobs. Over 3,000 people from fish processing plants may lose their jobs. Another 1,000 family fishermen and crew will be out of a job. How will they support their families? How will you get local seafood?

Hardest hit will be Californians on fixed incomes, single parents, seniors and the poor who will no longer be able to afford the healthy nutrition of a fresh seafood meal.

7. *Who's Really Behind Proposition 132?*

Sponsors of Proposition 132 are wealthy sportfishermen and sportfish tackle manufacturers. They have admitted publicly that this is not a resource issue—rather it is an issue of who can enjoy fish and who can't. In other words, there are ocean resources to be shared by everyone, but this proposition was created so that the people who fish in the ocean for fun can have a monopoly for their personal pleasure.

ROBERT E. ROSS
Executive Director, California Fisheries and Seafood Institute

FRANK SPENGER JR.
Seafood Restaurant Owner

MRS. THERESA HOINSKY
President, Fishermen's Union of America AFL-CIO

Rebuttal to Argument Against Proposition 132

Gill netting is not a "safe, ecologically sound method of catching fish." It is a cruel and outdated method that indiscriminately kills thousands of non-commercial marine mammals every year in California. Better methods are available.

Proposition 132 will not triple the cost of fresh fish. Gill nets used within three miles of our coast provide only about one percent of fish sold in California—an amount so small it will not impact prices. Because gill nets decimate fish stocks, they actually drive up the cost of seafood.

Proposition 132 will not put people out of work. Proposition 132 will provide compensation to help the 250 Southern California gill netters switch to less destructive fishing methods, with funding from a temporary "marine only" sports fishing license. Proposition 132 will save jobs by reducing waste and allowing over-fished species like the white sea bass to recover.

Gill nets are already banned along California's northern and central coasts. Powerful commercial fishing lobbyists have blocked efforts to extend this important protection to Southern California. Proposition 132 will make sure the entire coast of California is protected.

Our coastal waters and the precious resources they sustain belong to all Californians. A small group of commercial fishermen should not be allowed to plunder these limited resources through the cruel, destructive and outdated practice of gill-netting.

Proposition 132 is supported by environmental groups, conservationists, marine scientists, sports fishermen and other concerned Californians. We urge you to join us by voting 'YES' on Proposition 132.

QUENTIN KOPP
State Senator, Independent—8th District

DR. JOHN S. STEPHENS, JR.
James Irvine Professor of Environmental Biology, Occidental College

SAM LA BUDDE
Earth Island Institute Research Biologist

133 Drug Enforcement and Prevention. Taxes. Prison Terms. Initiative Statute

Official Title and Summary:

DRUG ENFORCEMENT AND PREVENTION.
TAXES. PRISON TERMS. INITIATIVE STATUTE

- Establishes Safe Streets Fund in State Treasury.
- Appropriates funds in account for Anti-Drug Education (42%); Anti-Drug Law Enforcement (40%); Prisons and Jails (10%); Drug Treatment (8%).
- Increases state sales and use taxes ½ cent for four years starting July 1, 1991; increased funds transferred to Safe Streets Fund.
- Limits state administrative expenses to 1%.
- Prohibits early release of persons convicted twice of: murder; manslaughter; rape or sexual assault; mayhem; sale, possession for sale, drugs to minors on schoolgrounds or playgrounds; using minors to sell or transport drugs.

Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:

- The Safe Streets Fund will receive a total of $7.5 billion in sales tax revenue for distribution during four-year period rate increase is in effect.
- Interest earnings received by the General Fund for the four-year period will be $80 million, with education programs receiving up to $33 million.
- Minor General Fund costs beginning in 1997–98 increasing to more than $30 million annually, by 2012–13 as a result of increased prison population due to elimination of sentence credits for specified offenders; potential one-time costs of more than $140 million for construction of new prison facilities.
- Increased law enforcement funding could result in additional criminal arrests and convictions, increasing state and local costs, which may be reduced by the increased funding of drug education and prevention programs.

Analysis by the Legislative Analyst

Background

Anti-Drug Programs. The state and local governments operate many programs designed to reduce the use of illegal drugs. These programs include law enforcement, education and prevention, treatment, and research. In 1989–90, the state spent more than $1 billion in state and federal funds for these programs. The amount spent by local governments for these programs is unknown, but is probably close to $2 billion.

State Sales Tax. Most of the anti-drug programs funded by the state are supported by the state's General Fund. The General Fund receives money from a number of sources, including personal income taxes, bank and corporation taxes, and sales taxes. The California state sales tax rate currently is 5 percent (5 cents for each $1 of sales). When combined with local sales taxes, the *total* (state and local) sales tax rate currently varies among counties from 6.25 percent to 7.25 percent.

The state rate was increased from 4.75 percent to 5 percent in December 1989 to raise additional revenues to cover costs arising from the San Francisco Bay Area earthquake of October 1989. It will return to 4.75 percent on January 1, 1991, under current law.

Prison Inmate "Credits." Under current law, most state prison inmates earn "credits" to reduce the amount of time they spend in state prison. Generally, inmates earn credits by participating in work or education programs. These credits can reduce the length of time rved in prison by up to one-half. Inmates who do not articipate in work or education programs may earn credits that reduce their prison time by up to one-third.

Proposal

This measure has three major provisions:

Sales Tax Increase. The measure increases the state sale tax rate by one-half percent (from 4.75 percent to 5.25 percent) beginning July 1, 1991. The rate would return to 4.75 percent on July 1, 1995.

Use of Increased Sales Tax Revenues. The additional sales tax revenues raised by this measure would be deposited in the Safe Streets Fund. Monies in the fund would be allocated in the following manner:

- *Anti-Drug Education.* The Superintendent of Public Instruction would distribute 42 percent of the funds to schools, community organizations, and child development programs for anti-drug education and counseling programs.
- *Law Enforcement.* The Attorney General would distribute 40 percent of the funds to local law enforcement agencies for street-level law enforcement and prosecution activities, and to the state Judicial Council to increase the ability of the courts to process drug-related cases.
- *Prisons and Jails.* The state Board of Corrections, Department of Corrections, and the Secretary for the Youth and Adult Correctional Agency would distribute 10 percent of the funds for (1) construction and operating costs of county jails, (2) operating costs of state prisons and youth correctional facilities, and (3) support of drug treatment programs for inmates, wards, and parolees of the Departments of Corrections and Youth Authority.
- *Drug Treatment and Prevention.* The Secretary of Health and Welfare would distribute 8 percent of the funds for drug treatment and prevention programs, supportive services, and perinatal substance abuse.

Prison Inmate Credits. The measure prohibits persons convicted of certain violent or drug-related crimes from receiving credits to reduce their prison sentences. These provisions would increase the length of time some inmates spend in state prison.

Fiscal Effect

Sales Tax Increase. The Safe Streets Fund will receive a total of $7.5 billion in sales tax revenues during the four-year period the rate increase is in effect. On an annual basis, these revenue increases would range from $1.5 billion to $2.1 billion.

Use of the Increased Sales Tax Revenues. The measure distributes monies in the Safe Streets Fund as follows:

- $3.1 billion for anti-drug education.
- $3 billion for law enforcement.
- $800 million for prisons and jails.
- $600 million for drug treatment and prevention.

Interest on Sales Tax Revenues. The General Fund would receive the interest earnings on the increased sales tax revenues before they are deposited into the Safe Streets Fund. Over the four-year period, these interest earnings will be $80 million. Under Proposition 98, K–14 education programs may receive up to 41 percent ($33 million) of these interest earnings, depending upon the formula used to determine the state funding guarantee for these programs.

Prison Inmate Credits. This measure would eliminate sentence reduction credits for certain offenders, thereby resulting in an increase in the state prison population. This could result in:

- Relatively minor General Fund costs beginning in 1997–98, increasing to about $30 million annually by the year 2012–13 to support the increased population.
- One-time costs of more than $140 million for the construction of new prison facilities to house the increased prison population.

Other Fiscal Effects. The increased funding for street-level law enforcement could result in additional criminal arrests and convictions. This could result in increased state and local criminal justice costs. The increased funding for drug education and prevention could reduce state and local costs in the future.

For text of Proposition 133 see page 117

133 Drug Enforcement and Prevention. Taxes. Prison Terms. Initiative Statute

Argument in Favor of Proposition 133

Drugs and drug-related crimes are the biggest problems facing this state. People are killed in drive-by shootings and gang wars in cities and suburbs all over California. Drug labs are springing up in rural counties. Our children are exposed to drugs in school, no matter how wealthy or poor the neighborhood. Each year, 55,000 drug addicted infants are born in California, many of them crack babies.

And every day, criminals who repeatedly murder, rape, sell drugs to children, or deal huge quantities of drugs are released from prison *before they've served their full sentences*, only to commit other crimes.

It's time to put an end to it.

Too many of our children are being destroyed by drugs and gangs. Proposition 133—the Safe Streets Initiative—will help them fight back.

- IT WILL FORCE REPEAT VIOLENT OFFENDERS AND DRUG CRIMINALS TO SERVE THEIR FULL PRISON SENTENCES. Right now, even criminals convicted of two or more murders or huge drug deals can have their sentences cut in half thanks to "good behavior" or work programs. Proposition 133 will keep them in jail.
- IT WILL PROVIDE PROVEN ANTI-DRUG PROGRAMS LIKE "DARE" AND "SANE" TO EVERY CHILD IN EVERY CLASSROOM IN CALIFORNIA. These classes work! But only a small percentage of our children receive them, because there isn't enough money.
- IT WILL FUND SUPERVISED AFTER-SCHOOL PROGRAMS LIKE ATHLETICS AND ARTS TO GIVE KIDS ALTERNATIVES TO THE STREETS. One reason kids get into drugs and gangs is because they have nothing to do after school. Proposition 133 funds after-school programs for hundreds of thousands of children.
- IT WILL PUT MORE POLICE ON THE STREETS TO PROTECT LAW-ABIDING CITIZENS. Proposition 133 provides the money to hire thousands of new officers.
- IT WILL GIVE POLICE BETTER WEAPONS, SO THEY WON'T BE OUTGUNNED BY DRUG DEALERS.
- IT WILL PROVIDE TREATMENT PROGRAMS WHICH HELP PREVENT THE BIRTH OF CRACK BABIES, AND HELP YOUNG ADDICTS RECOVER.

These programs are funded with a ½ cent sales tax. But unlike most taxes, Proposition 133 guarantees that every penny is used for specific education, law enforcement, and treatment programs. The money cannot be diverted:

- All the money goes into a separate "Safe Streets" Account that can only be used for anti-drug education, law enforcement, and treatment programs.
- Unless the voters decide to extend it, the program automatically expires in four years. IF IT DOESN'T WORK, IT'S GONE. AUTOMATICALLY.
- State administrative expenses are limited to 1%.
- Annual independent audits make sure the money goes where it's supposed to—to successful anti-drug programs.

Proposition 133 is supported by every major law enforcement group in California, and leading medical, business, and school groups.

They know the key to fighting drugs is to:

1) TEACH OUR KIDS ABOUT THE DANGERS OF DRUGS, AND HELP THEM BUILD THEIR FUTURES; and

2) MAKE SURE DANGEROUS CRIMINALS AND DRUG DEALERS ARE ARRESTED, PROSECUTED, AND SERVE STIFF SENTENCES.

That's what Proposition 133 is about.

DARYL GATES
Police Chief, City of Los Angeles

BILL HONIG
Superintendent of Public Instruction

LEO McCARTHY
Lieutenant Governor

Rebuttal to Argument in Favor of Proposition 133

It is not by accident that the sponsor of proposition 133, Leo McCarthy, does not mention what this proposition is really about—RAISING YOUR TAXES—until nearly the end of his ballot argument.

THIS PROPOSITION WILL INCREASE THE AVERAGE FAMILY'S TAXES BY OVER $500—those very innocent people who should not have to pay for criminal behavior.

An additional $500 in taxes means many parents must work overtime and spend even less time with their children.

The elimination of drugs from our streets, schools and communities is of utmost importance, but more taxes is not the answer.

The programs outlined in this proposition can be paid for out of current tax revenues.

The real purpose of this proposition is to provide political cover for Leo McCarthy because of his poor crime enforcement record. He would have you believe that Proposition 133 is necessary to force repeat offenders to serve their full sentences. I SAY THEY SHOULD SERVE THEIR FULL SENTENCES THE FIRST TIME THEY RAPE OR MURDER.

Don't be fooled by election year hype. McCarthy will promise you anything to reach into your pocket for your tax dollars.

He further claims it's a four year temporary $7.6 billion tax increase. When is the last time you remember a temporary tax being repealed by the state legislature?

What we need are tougher laws to keep offenders in prison—without tax increases. We need to use our current tax dollars more effectively. VOTE NO ON PROPOSITION 133.

MARIAN BERGESON
State Senator, 37th District

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Drug Enforcement and Prevention. Taxes. Prison Terms. Taxes. Prison Terms. Initiative Statute 133

Argument Against Proposition 133

The so-called "Safe Streets" initiative is nothing more than another tax increase hidden inside of a special-interest ballot measure wrapped around a nice sounding name.

The "Safe" the proponents of this initiative want to crack open is taxpayers pocket books.

As devised by Lieutenant Governor Leo McCarthy, this measure would cost taxpayers over $7.6 billion. At a cost to the average California family of over $500.

This measure also makes claims that its passage will be tough on criminals by proposing to prohibit the early release of persons convicted *twice* of murder, rape and drug dealing. Why give these criminals a second chance and raise your taxes at the same time? We think it makes more sense to put these people away the *first* time they commit these violent crimes.

Increasing your statewide sales tax dollars to pay for specific special interest programs is bad tax policy. Not only do you have the burden of unneeded tax increases, but you remove all flexibility from government in their ability to properly manage state services.

The way the initiative is written, the sales tax increase is only for four years. However, many programs and budgets would be funded with that money and there is little chance the Legislature would be able to resist the pressure from local ernments, government employees, and other affected erest groups not to continue the increased tax. If the increase was not continued, there would be fiscal chaos for both local schools, law enforcement, and other programs which will have grown dependent on the money. In other words, the reality of passage of this measure means a permanent tax increase and McCarthy and its proponents are trying to fool the voters with the language to sunset the tax after just four years.

There is a distressing trend in California politics of carving out a piece of the taxpayer pie for different special needs. The cumulative effect of this is tax policy anarchy resulting in a variety of specially designed programs overfunded by taxpayers.

This measure purports to put more cops on the street in order to fight crime, but in reality the schools receive nearly half of the new tax money. The schools already have a minimum guaranteed share of the state budget under Proposition 98. If people want to provide more funding to support local law enforcement this is the wrong measure to do it.

We strongly urge you to reject this tax increase initiative. This measure while great for politicians and bureaucrats is terrible for businesses and taxpayers.

BILL LEONARD
State Senator, 25th District

RICHARD GANN
President, Paul Gann's Citizens Committee

Rebuttal to Argument Against Proposition 133

Tired of hot air about drugs and gangs?
Think it's time to fight back?
Then vote for Proposition 133.

The opponents are right about one thing—*Proposition 133 strongly supports anti-drug education programs:*

- MOST CHILDREN—MAYBE YOUR OWN—AREN'T TAUGHT ANTI-DRUG CLASSES IN SCHOOL BECAUSE THERE ISN'T ENOUGH MONEY. Proposition 133 provides anti-drug education to every child in every classroom in California.
- THOUSANDS OF CHILDREN—MAYBE YOUR OWN—ARE EXPOSED TO DRUGS AFTER SCHOOL, BECAUSE THEY HAVE NOTHING ELSE TO DO. Proposition 133 funds supervised after-school programs like athletics and arts to help give kids alternatives to the streets.

Proposition 133 also funds programs that prevent "crack babies" and other drug-addicted infants, who are innocent victims of the drug tragedy.

Prevention is critical, but it isn't enough. Proposition 133 puts thousands more police officers on the street, and gives them the equipment they need to make our streets safe. PROPOSITION 133 HAS BEEN ENDORSED BY EVERY MAJOR LAW ENFORCEMENT ORGANIZATION IN THE STATE:

—California Police Chiefs Association
—California Sheriffs Association
—California Peace Officers Association
—California Correctional Peace Officers Association
—Peace Officers Research Association of California

Proposition 133 also requires repeat criminals to serve their full sentences. Everybody supports tough sentences. But tough sentences don't help if the criminals get out early. Right now, criminals convicted repeatedly of violent crimes can still get out of jail early. Proposition 133 will put an end to that.

KEEP KIDS OFF DRUGS.
KEEP CRIMINALS IN JAIL.
YES ON 133.

CHIEF DON BURNETT
President, California Police Chiefs Association

DR. JOAN E. HODGMAN
Director of Newborn Care, Los Angeles County (USC) Medical Center

LEO McCARTHY
Lieutenant Governor

134 Alcohol Surtax. Constitutional Amendment. Initiative Statute

Official Title and Summary:

ALCOHOL SURTAX. CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE

- Establishes Alcohol Surtax Fund in State Treasury.
- Imposes surtax of five cents per 12 ounces beer, 5 ounces most wines, 1 ounce distilled spirits.
- Imposes additional per unit floor stock tax.
- Proceeds deposited into Alcohol Surtax Fund.
- Guarantees 1989–90 nonsurtax funding with required annual adjustments, and appropriates Surtax Fund revenues for increased funding for alcohol and drug abuse prevention, treatment and recovery programs (24%); emergency medical care (25%); community mental health programs (15%); child abuse and domestic violence prevention training and victim services (15%); alcohol and drug related law enforcement costs, other programs (21%).

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Surtax would increase tax on beer from 4 cents to 57 cents per gallon, most wines from 1 cent to $1.29 per gallon, and distilled spirits from $2 to $8.40 per gallon.
- The surtax would result in additional state revenues of approximately $360 million in 1990–91 and $760 million in 1991–92, depending on alcohol sales.
- State General Fund revenues could increase or decrease several million dollars due to effect on sales tax revenues and revenues from existing alcoholic beverage taxes.
- Local sales tax revenue would increase by several million dollars.
- The guarantee for 1989–90 level nonsurtax funding, with required annual adjustments, for various health, mental health, criminal justice and other programs could increase costs by $180 million in 1990–91 and over $300 million in 1991–92; possibly additional tens of millions of dollars in subsequent years.
- These costs would have to be funded from revenues other than surtax.
- Expenditure of surtax revenues for prevention and treatment programs could result in future savings.

Analysis by the Legislative Analyst

Background

Currently, the state taxes alcoholic beverages at the rate of $2 per gallon on liquor (distilled spirits), 4 cents per gallon on beer, and 1 cent per gallon on most wines. This year, the state will collect about $128 million from these taxes. Most of the revenue (76 percent) will come from the tax on liquor. These revenues go into the state's General Fund to pay for education, health, welfare, and other government programs.

Proposal

This measure has four major parts:

- *Alcohol Surtax.* It imposes a surtax—a tax collected in addition to the existing state alcohol tax—on beer, wine, and liquor.
- *Requirements for Spending the Surtax Revenues.* It creates the Alcohol Surtax Fund into which all surtax revenues would be deposited. It also specifies how this money would be spent.
- *Guaranteed Funding Level for Existing State Programs.* In addition to specifying how the new revenues from the surtax would be spent, the measure establishes a guaranteed funding level for certain existing state programs. Specifically, it requires the state to keep the funding for a broad variety of health, mental health, law enforcement, social services, and drug and alcohol abuse prevention and treatment programs at their 1989–90 funding levels plus annual adjustments for population and cost increases.
- *Conflict With Another Measure on This Ballot.* It contains language stating how a conflict with another measure on this ballot is to be resolved.

Alcohol Surtaxes. This measure adds surtaxes to the existing state tax on beer, wine, and liquor beginning January 1, 1991. The new surtaxes would increase the state tax on beer from 4 cents to 57 cents per gallon, the tax for most wines would increase from 1 cent to $1.29 per gallon, and the tax on liquor would increase from $2 to $8.40 per gallon. As a result, taxes would go up by 30 cents on a six-pack of beer, by 25 cents on a bottle (750 milliliters) of most wines, and by $1.27 on a bottle (750 milliliters) of liquor.

How Surtax Revenues Will be Spent. The measure requires the state to spend the revenues from the sur[illegible] for the following purposes:

- *Alcohol and Drug Abuse Prevention and Treatment.* Twenty-four percent of the revenues would be used for alcohol and drug abuse prevention and treatment services.

- *Emergency Medical and Trauma Care Treatment.* Twenty-five percent of the revenues would be used for emergency medical and trauma care treatment.
- *Mental Health.* Fifteen percent of the revenues would be used for locally implemented community mental health programs.
- *Various Health and Social Services.* Fifteen percent of the revenues would be used for prevention, treatment, and health services for certain women, children, and disabled persons.
- *Law Enforcement-Related Programs.* Twenty-one percent of the revenues would be used for various enforcement programs and a statewide emergency medical air transportation network.

The measure requires that the surtax revenues only be used to increase the level of services for these programs above those paid for by the state in 1989–90. The Legislature and the Governor would have to specify how the revenues would be divided among the specific programs within each of the general categories described above.

Guaranteed Funding Level for Existing State Programs. The measure requires the state to keep funding for the five program areas described above at the 1989–90 level with annual adjustments for population and cost increases. The state could not use revenues from the surtax to pay for these guaranteed funding levels; instead, it would have to use other state money. In 1989–90, the state spent more than $2 billion on these programs. As a result of the guarantee provided in this measure, the state would be required to spend at least this amount in the future, plus additional amounts to cover population and cost increases.

Conflict With Another Measure on This Ballot. Proposition 136 (the Taxpayers' Right to Vote Act of 1990), also on this ballot, imposes new voter approval requirements for new or increased special taxes enacted through the initiative process. Proposition 136 also requires that any special taxes imposed on personal property be imposed on the *value* of the property. This measure (Proposition 134) states that it would not be affected by the section of the State Constitution to which these new requirements would be added.

Fiscal Effect

Revenue From the New Surtaxes. The alcohol surtaxes imposed by this measure would result in additional state revenues of approximately $360 million in 1990–91 (part year) and $760 million in 1991–92 (first full year). The amount of surtax revenues after 1991–92 would depend on trends in alcohol sales. All of the revenues raised by the measure would be used to increase services in the areas described above.

Effects on Revenue From Existing Taxes. This measure also could increase or decrease state General Fund revenues by several million dollars each year, due to its effects on sales tax revenues and revenues from the existing alcoholic beverage taxes. Local sales tax revenues would increase by several million dollars statewide.

Costs of the Guaranteed Funding Level. The requirement to keep spending for a variety of health, mental health, criminal justice, and other programs at their 1989–90 level, plus adjustments for population and cost increases could initially raise state costs by about $180 million in 1990–91 and by over $300 million in 1991–92. This latter amount could grow by tens of millions of dollars in each subsequent year. These costs would be funded by regular (nonsurtax) state revenues.

Impact on Program Expenditures. Spending the surtax revenues on prevention and treatment programs could result in future state and local savings in various governmental programs.

For text of Proposition 134 see page 119

134 Alcohol Surtax. Constitutional Amendment. Initiative Statute

Argument in Favor of Proposition 134

PROPOSITION 134 IS THE "NICKEL-A-DRINK" ALCOHOL TAX INITIATIVE.

Proposition 134 increases the excise tax on alcohol equal to a "nickel-a-drink" and invests the proceeds to fight alcohol related problems. Specifically, Proposition 134 earmarks the revenues from the "Nickel-a-Drink" Alcohol Tax Initiative for:

- Alcohol and drug abuse education.
- Enforcement of drunk driving, and other alcohol and drug related laws.
- Emergency and trauma care treatment.
- Alcohol and drug abuse prevention and recovery programs.
- Community mental health programs.
- Programs for innocent victims of alcohol abuse, including spousal and child abuse victims.
- Programs for infants with birth defects caused by drinking and drug use during pregnancy.

The idea for a nickel-a-drink "user fee" originated with former Surgeon General C. Everett Koop who said: "Who could quarrel with a nickel-a-drink user fee. . . . to help save lives."

Who quarrels with a nickel-a-drink user fee? THE LIQUOR INDUSTRY! The liquor industry's motive for opposing Proposition 134 is twofold: preserve its profits AND the nation's lowest overall tax on alcoholic beverages.

You should vote YES on Proposition 134 because:

- Alcohol costs California taxpayers over $13 billion annually.
- Alcohol is the leading cause of death among teenagers.
- California's emergency medical care system is near collapse, largely because of alcohol related accidents and injuries.
- About 68% of alcohol is consumed by only 11% of the people.
- Approximately 33% of all mentally ill and homeless persons also have alcohol and drug problems.
- California has the lowest alcohol taxes in the nation. For instance, the tax on wine has been 1¢ per gallon since 1937; it has not changed for 53 years.

BEFORE VOTING ON PROPOSITION 134, ASK YOURSELF THIS SIMPLE QUESTION:

WHOM DO YOU TRUST?:

The liquor industry or the supporters of Proposition 134, which include:

CALIFORNIA CHAPTERS, MOTHERS AGAINST DRUNK DRIVING (MADD)
THE CALIFORNIA ASSOCIATION OF HIGHWAY PATROLMEN
THE CALIFORNIA COUNCIL ON ALCOHOL PROBLEMS
THE CALIFORNIA COUNCIL OF CHURCHES
THE CALIFORNIA CONSORTIUM FOR THE PREVENTION OF CHILD ABUSE
THE AMERICAN COLLEGE OF EMERGENCY PHYSICIANS—CALIFORNIA CHAPTER
THE CALIFORNIA PEACE OFFICERS' ASSOCIATION
THE CALIFORNIA POLICE CHIEFS ASSOCIATION
THE CALIFORNIA COUNCIL OF COMMUNITY MENTAL HEALTH AGENCIES
THE CALIFORNIA COUNCIL ON CHILDREN AND YOUTH

For the vast majority of the Californians, who drink moderately or not at all, *the "nickel-a-drink" tax will cost less than 35 cents a week.* Proposition 134 targets the heavy drinkers—the drunk drivers and alcohol abusers who cause most of the deaths and injuries attributable to alcohol. Proposition 134 will provide $760 million annually for programs that address alcohol related problems in California.

PLEASE REMEMBER ALSO TO VOTE NO ON PROPOSITIONS 126 AND 136. *Both are sponsored by the liquor industry as part of its campaign to defeat Proposition 134.*

VOTE YES ON PROPOSITION 134, THE "NICKEL-A-DRINK" ALCOHOL TAX INITIATIVE.

DR. DONALD M. BOWMAN
Executive Director, California Council on Alcohol Problems

MICHAEL P. TRAINOR, M.D.
President, American College of Emergency Physicians, State Chapter of California

THOMAS A. NOBLE
President, California Association of Highway Patrolmen

Rebuttal to Argument in Favor of Proposition 134

IT'S NOT WHAT IT CLAIMS!

Proposition 134 is not just a "nickel" alcohol tax, it requires spending more than it raises.

EVERYONE PAYS

- Proposition 134's author testified that *automatic budget increases* could be $50 to $100 million annually.
- The Legislative Analyst says Proposition 134 could spend *tens to hundreds of millions of dollars* more than it raises each year.
- A Senate Committee reports *mandated spending could be $2 billion more* than provided by alcohol taxes within a few years.

THIS SHORTFALL MUST BE PAID BY THE GENERAL FUND—BY YOUR INCOME AND SALES TAXES. Up to $200 per family yearly plus any alcohol surtaxes you pay.

FALSE PROMISES—MISPLACED PRIORITIES

Proposition 134 fails to deliver on the promoters' promises. The guaranteed spending plan misses the mark:

- California Teachers Association *opposes* Proposition 134 because no money is directed to public schools for alcohol abuse programs.
- Less than half the spending goes to alcohol abuse programs. Proposition 134 *spends nearly as much on litter control as on abuse prevention communications.*
- Police and firefighters oppose Proposition 134 because *three times more goes to private physician subsidies than to drunk driving enforcement.*

BAD GOVERNMENT

Proposition 134 requires *automatic spending increases annually,* above the alcohol tax.

There is *no annual review* or oversight to ensure spending increases are needed.

Wasteful or unneeded programs *cannot be cut* by the Legislature or Governor.

It *never expires,* so spending hikes increase forever.

Proposition 134 is a bad law all of us will pay for. Vote "NO" on 134.

MARC KERN, Ph.D.
Addiction Alternatives Research & Treatment Center

ROBERT B. HAMILTON
President, California State Fireman's Assn.

DANA W. REED
Former Director, Calif. Dept. of Traffic Safety

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Alcohol Surtax. Constitutional Amendment. Initiative Statute 134

Argument Against Proposition 134

VOTE NO on Proposition 134. *This is not just an alcohol tax.*

Despite its claims, Proposition 134:

- Locks in spending of $1.9 billion in its first year ($1.2 billion in current general fund monies, plus new alcohol taxes of $730 million) and DICTATES ANNUAL BUDGET INCREASES that we all pay.
- Threatens tax increases—for all taxpayers—to fund annual budget increases (the only alternative is to cut important state programs).
- Directs no monies to public schools for prevention programs.
- Spends most funds on programs not related to alcohol or drug problems.

SPENDING EXCEEDS ALCOHOL TAX

Proposition 134 penalizes all Californians—*not just drinkers*—by SPENDING FAR MORE THAN THE TAX RAISES. It locks in $1.2 billion in current state spending—then requires annual budget increases—which all taxpayers must pay for.

These budget increases are tied to California's explosive population growth. (Read Section 32240, Proposition 134 per-capita spending level "escalator clause".)

Proposition 134 could eventually spend five times more than it raises. We will pay either through income or other tax increases or through reductions in vital state programs. *Proposition 134 specifically states NONE OF THESE MANDATORY SPENDING INCREASES CAN BE PAID BY THE ALCOHOL SURTAX.*

THREATENS IMPORTANT SERVICES

Proposition 134 threatens funds for programs like senior citizen nutrition, child welfare, safe food and agriculture, prisons, conservation and fire protection by creating new demands on the General Fund. The Legislative Analyst estimates these *INCREASES COULD COST $480 MILLION IN THE NEXT TWO YEARS.*

OTHER TAX INCREASES

State income or sales taxes may be required because Proposition 134 *costs millions more than it raises.*

A Senate Budget Committee investigation found deficits could reach $2 billion—equal to a $200 income tax for every California family—on top of the alcohol tax.

SCHOOLS GET NOTHING

Proposition 134 deprives California public schools of any right to Alcohol Surtax funds.

The best answer to alcohol abuse and illegal drug use is prevention education. Yet Proposition 134 *gives nothing to schools for prevention.*

NO FUNDS FOR ALCOHOL AND DRUG DEPARTMENT

Less than half of Proposition 134 spending actually goes to fight illegal drug use or alcohol abuse.

Proposition 134 scatters funds to a dozen programs, but not one cent goes to California's Department of Alcohol and Drug Programs. Only 3 percent of its $730 million tax goes to fight drunk driving, the program that should be the Number One public safety priority in our state.

BLANK CHECK FOR WASTE

Even if you like higher alcohol taxes, consider that Proposition 134:

- Mandates *higher government spending every year,* whether programs work or not, whether money is needed or not.
- Requires annual increases *even if fraud, waste or abuse are proven.*
- Prohibits the Governor and Legislature from cutting these budgets, even for disasters or financial crises.
- *Exempts* several *hundreds of millions* of dollars of government spending *from the state's constitutional spending limit.*
- Has *no expiration date,* so spending increases continue forever.

We urge you to vote NO on Proposition 134. It creates many more problems than it solves.

FRANK M. JORDAN
Police Chief, City and County of San Francisco

LARRY McCARTHY
President, California Taxpayers Association

HERBERT E. SALINGER
Former Executive Director, California School Boards Association

Rebuttal to Argument Against Proposition 134

The opponent of the "Nickel-A-Drink" Initiative is the liquor lobby. They are spending more than $20 million trying to confuse voters with misleading information.

The liquor lobby says: "Schools get nothing."

Fact: Proposition 134 provides over $40 million annually for alcohol abuse programs in public schools *and* in the community.

Liquor lobby: "Spending exceeds alcohol tax."

Fact: Proposition 134 *supplements* current funding for alcohol-related programs and services. A "safety clause" in Prop. 134 guarantees that politicians will *not* be allowed to cut back on current funding for alcohol-related programs and services when the Nickel-A-Drink funds become available. This "safety clause" is what the liquor lobby is calling the "escalator clause." Prop. 134 does not increase other taxes. Instead, $760 million in alcohol taxes will be *added revenue* for our cities, counties and state alcohol-related programs and services.

Liquor lobby: "Only 3% goes to fight drunk driving."

Fact: Prop. 134 will provide up to $129 million for the enforcement of drunk driving laws.

Liquor lobby: "No funds for alcohol and drug department."

Fact: Every nickel of the Nickel-A-Drink tax will be spent for *alcohol related* services and programs; services like child abuse programs, alcohol abuse education in public schools, and programs for the victims of drunk drivers.

By paying a nickel-a-drink more, people who drink alcohol can contribute to covering the costs related to their behavior. We think that's fair and respectfully urge you to vote yes on Proposition 134.

HARRY SNYDER
West Coast Director, Consumers Union, U.S., Inc. Publisher of Consumer Reports

RIC LOYA
Exec. Director, CA Assoc. of School Health Educators

JACQUELINE MASSO
Santa Clara County Chapter of Mothers Against Drunk Driving (MADD)

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135 Pesticide Regulation. Initiative Statute

Official Title and Summary:

PESTICIDE REGULATION. INITIATIVE STATUTE

- Expands state pesticide residue monitoring program for produce, processed foods.
- Establishes state training, information programs for pesticide users.
- Mandates review of cancer-causing pesticides.
- Creates, modifies pesticide-related state advisory panels.
- Creates state-appointed advocate to coordinate pesticide policies.
- Eliminates some industry fees for pesticide regulatory programs.
- Restructures penalties, system of fines, for regulatory violations.
- Provides for state disposal of unregistered pesticides.
- Appropriates $5,000,000 annually through 1995 to fund pesticide-related research.
- Provides that between competing initiatives regulating pesticides, measure obtaining most votes supersedes components of other(s) dealing with pesticide enforcement for food, water and worker safety.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- One-time state General Fund cost of approximately $4 million, and annual costs of approximately $5.5 million, for pesticide and food safety programs.
- Estimated annual state revenue loss of approximately $1.5 million due to repeal of industry fees.
- One-time state General Fund cost of approximately $20 million, unknown annual costs, to fund collection and disposal of unregistered pesticides.
- State General Fund cost of $25 million over five years to support pest management research, and annual General Fund cost of up to $600,000 for purchase of sterile fruit flies.
- Additional state administrative and regulatory costs ranging from $200,000 for Environmental Advocate to, possibly, several million dollars annually for other programs.

Analysis by the Legislative Analyst

Background

Many foods grown in California are treated with pesticides to control bugs, molds, and other pests. The use of pesticides in California is regulated by the California Department of Food and Agriculture (DFA) and other state agencies. The DFA's pesticide regulation activities are funded from the state's General Fund, a tax on pesticides, and license and registration fees. The state also administers programs for (1) the disposal of hazardous waste, including pesticides, (2) research on pest management techniques, (3) pest control, including activities aimed at controlling outbreaks of the Mediterranean fruit fly, and (4) transportation of hazardous materials.

Pesticides and Food Safety. Under current law, before a pesticide can be used or sold in California it must first be registered by both the DFA and the United States Environmental Protection Agency (EPA). The manufacturer of the pesticide must submit information to the DFA on the potential health effects that may be caused by the active ingredients in the pesticide. (These ingredients are those that kill pests.) If using a pesticide will result in some of the pesticide remaining in or on the food, the registration restricts the amount allowed to remain in order to prevent any harmful health effects.

The DFA currently tests about 17,000 samples of over 200 different kinds of produce each year to determine if they are likely to contain levels of pesticides that may be harmful if eaten. Produce that exceeds the allowable level of pesticide residues are destroyed.

Pesticide Disposal. The Department of Health Services (DHS) is the state agency responsible for regulating the use and cleanup of hazardous waste. State law requires hazardous waste, including pesticides, to be disposed of properly in order to prevent harmful health or environmental effects. Under current law, the cost of disposing of hazardous waste generally is the responsibility of the person that generated the waste.

Pest Management. The DFA and the University of California currently spend approximately $39 million in state funds each year on pest management research. The primary emphasis of the research is to develop pest control methods that do not involve the use of pesticides. The DFA also is involved directly in field activities to control or eliminate specific pests. For example, the DFA sprays pesticides and releases sterile fruit flies to control outbreaks of the Mediterranean fruit fly.

Transportation of Hazardous Materials and Food. The state Public Utilities Commission (PUC) regulates highway carriers through the issuance of permits. Existing law does not prohibit the transport of hazardous materials and food in the same truck.

Proposal

In summary, this measure:

- Makes changes in (1) the monitoring and regulation of pesticides for food safety, (2) the disposal of pesticides, (3) the funding for pest management, and (4) the transportation of hazardous materials and food.
- Requires the Secretary of Environmental Affairs to serve as the Environmental Advocate for state laws related to pesticides, agriculture, and food safety.

- Contains language stating how conflicts between it and another measure on this ballot are to be resolved.
- Restates many provisions of existing law and requires a two-thirds, rather than a majority, vote by the Legislature to change these provisions.

Pesticides and Food Safety. The measure makes the following four changes:

- Requires the DFA to increase its pesticide residue monitoring program for *raw* produce by 100 percent from the number of samples taken in 1989. Current law requires a significant expansion in portions of the DFA's residue monitoring program.
- Requires the DHS to increase its pesticide residue monitoring program for *processed* food by 100 percent from the number of samples taken in 1990. The DHS is budgeted to increase its sampling by over 100 percent, therefore, this measure may not result in any increase in monitoring of processed foods.
- Allows the DFA to require manufacturers of pesticides containing a potentially harmful *inert* ingredient (the ingredient that carries the pest-killing chemicals), to submit health risk information. (Currently the DFA only requires health risk information on the *active* ingredients in pesticides, which are the ingredients that kill the pest.) Upon receiving this information, the DFA must revise, suspend, or cancel the registration of any pesticide that contains an inert ingredient that the DFA determines may be harmful to health.
- Repeals some fees that food processors and produce dealers currently are required to pay to support the costs of regulating pesticides and food safety.

Pesticide Disposal. The measure changes existing state policy regarding pesticide disposal by requiring the DFA to collect and dispose of any pesticide which is no longer registered for use in California. The collection of pesticides [illegible]uld be done at the request of the pesticide user, and the measure requires the entire cost of collection and disposal to be paid by the state.

Pest Management. The measure expands the current pest management research program by appropriating $25 million over a five-year period for research grants. The measure requires that the research focus on alternative pest management practices that (1) do not use pesticides, (2) use less pesticides, or (3) use safer pesticides.

The measure also requires the state to provide additional funds to the DFA to double its capacity to purchase sterile fruit flies currently used to control the Mediterranean fruit fly.

Transportation of Hazardous Materials and Food. The measure prohibits various types of tank truck carriers (tank trucks primarily carry bulk liquids) from using the same tank trucks to carry hazardous materials and food.

Environmental Advocate. This measure creates a position in state government called the Environmental Advocate, and requires the Secretary of Environmental Affairs to serve in the new position. The measure requires the advocate to coordinate with state agencies regarding their responsibilities for implementing and enforcing environmental laws relating to pesticides, agriculture, food safety, and pesticides in drinking water.

Water Quality. The measure requires the State Water Resources Control Board (SWRCB) to adopt a monitoring program to detect pesticide residues in the waters of the state, but does not specify the scope of the program. While the SWRCB already has a pesticide monitoring program, the [illegible]sure may result in the expansion of this program.

Conflicts with Another Measure on This Ballot. This measure contains language that states how conflicts between it and another measure on this ballot are to be resolved. Specifically, this measure provides that if both it and Proposition 128 (The Environmental Protection Act of 1990), which also is on this ballot, are passed by the voters, only the one that receives the most votes will be implemented with regard to pesticide regulation and enforcement for food, water and worker safety. The legal effect of these provisions is uncertain. This is because the State Constitution provides that only the *conflicting* provisions of the measure that receives the greater vote prevails.

In addition, the measure would restrict the Office of the Environmental Advocate (OEA), created by Proposition 128, from enforcing state pesticide-related laws, but would not affect the OEA's authority over other environmental and public health areas. Consequently, if both measures are enacted and this measure receives the greater number of votes, there would be two Environmental Advocates, one created by this measure for pesticide-related laws and one created by Proposition 128 for all other environmental laws.

Fiscal Effect

In summary, this measure would result in identifiable one-time state costs of approximately $49 million and annual costs of approximately $6 million. These costs would be paid by the state's General Fund. In addition, there would be an annual loss in state fee revenue of approximately $1.5 million. The components of these fiscal effects are discussed below.

Pesticides and Food Safety. This measure would result in one-time General Fund costs of approximately $4 million and annual costs of approximately $5.5 million for the programs related to pesticides and food safety. The measure also would result in a loss of revenue of about $1.5 million each year due to the repeal of fees which currently support pesticide and food safety programs.

Pesticide Disposal. This measure could result in one-time General Fund costs of roughly $20 million, spread over several years, to collect and dispose of all pesticides no longer registered. On going annual costs are not known. These ongoing costs could be small if there are few pesticide registrations which are cancelled in the future, but could be significant—possibly over $1 million each year—if a large number of pesticide registrations are cancelled.

Pest Management. The measure appropriates a total of $25 million from the General Fund over five years to support pest management research. In addition, the measure would result in annual General Fund costs of up to $600,000 in order for the DFA to double its capacity to purchase sterile fruit flies.

Transportation of Hazardous Materials and Food. This measure could result in minor enforcement costs to the PUC and local governments to respond to complaints concerning tank trucks that carry hazardous materials as well as food.

Environmental Advocate. The state General Fund administrative costs associated with the new responsibilities of the Environmental Advocate would be approximately $200,000 annually.

Water Quality. The measure requires the SWRCB to adopt a pesticide water quality monitoring program, but does not specify its scope. Consequently, there may be no additional costs—if the existing monitoring program meets the measure's intent—or there may be costs of several million dollars annually—if the water board expands its current program.

For text of Proposition 135 see page 121

135 Pesticide Regulation. Initiative Statute

Argument in Favor of Proposition 135

Proposition 135 addresses widespread public concern about pesticide use and its impact on food safety and the contamination of our environment. Proposition 135 establishes a comprehensive set of scientifically defined, HEALTH-PROTECTING PESTICIDE CONTROLS THAT PROTECT CONSUMERS, FARMWORKERS, OUR FOOD, OUR LAND, OUR WILDLIFE, OUR WATER, AND OUR AIR FROM THE POTENTIAL THREAT OF PESTICIDES.

Proposition 135 is based on good science and not politics.

PESTICIDE SAFETY POLICY

Proposition 135 implements a safe pesticide use policy that incorporates sound medical science that results in safe food and effective cancer prevention.

Proposition 135 establishes a process for removal of cancer causing pesticides from our food supply and ENSURES PROTECTION FOR INFANTS, CHILDREN AND SENIORS WHO MAY HAVE GREATER SENSITIVITY.

Proposition 135 provides $25 million to develop safe alternative pest control methods necessary to continue providing the abundant, affordable and wholesome food supply critical to effective cancer prevention. *Doctors, scientists and nutritionists agree the best cancer prevention is a healthful diet rich in fresh fruits and vegetables.*

15 NEW PROGRAMS FOR FOOD SAFETY AND ENVIRONMENTAL PROTECTION

California's Proposition 135 establishes the most stringent pesticide laws in the nation. Proposition 135's more than 15 new food and environmental protection programs will:

- Create a new State Agency division dedicated to food safety;
- Double and improve monitoring of our food supply for pesticides, especially for imported food;
- Develop alternatives to aerial medfly spraying and double production of sterile medflies;
- Provide greater safeguards and protection for farmworkers including much needed education about pesticides and training in their safe handling, mixing and application;
- Prohibit transporting food in tank trucks used to haul hazardous materials;
- Re-evaluate pesticides based on strict health standards;
- Ban pesticides which fail to meet the new health standards;
- Eliminate pesticides identified as a risk to health;
- Involve medical experts from the State Departments of Health and Food and Agriculture in assessing health risks;
- Establish a governor appointed science advisory panel to oversee the review of pesticides;
- Safeguard water quality by creating water quality objectives, monitoring and regulatory programs;
- Enact tough, new laws to strengthen the ability to identify and remove tainted produce;
- Provide for collection and disposal of dangerous pesticides;
- Impose strict, costly penalties for violating pesticide laws.

Proposition 135 also establishes an environmental coordinator to ensure full and efficient implementation of Proposition 135 and to bolster enforcement of all environmental laws.

PROPOSITION 135 IS THE BEST APPROACH TO FOOD SAFETY

Proposition 135 has undergone extensive review and refinement in the public hearing process. Its scientific approach to food safety has emerged as the BEST APPROACH TO PESTICIDE REGULATION.

Proposition 135 is an effort to eliminate potential health risks from pesticides and to restore confidence in our food supply. It's supported by doctors, family farmers, grocers, food processors, farm organizations, concerned parents, and others interested in a safe and wholesome food supply.

WE MUST PROTECT OUR FOOD AND O[illegible] ENVIRONMENT FROM THE POTENTIAL THREAT [illegible] PESTICIDES.

Vote yes on Proposition 135.

BOB L. VICE
President of the California Farm Bureau Federation

DR. JULIAN R. YOUMANS, M.D., Ph.D.
Professor of Neurosurgery
University of California, Davis

HARUKO N. YASUDA, R.D.
Registered Dietician

Rebuttal to Argument in Favor of Proposition 135

Proposition 135 comes to you courtesy of the chemical, pesticide, and agribusiness industries.

Proposition 135 has one purpose: to stop Big Green (Proposition 128)—which is the best chance we have to protect Californians, especially our children, from cancer-causing pesticides.

PROPOSITION 135 IS 59 PAGES OF BACKROOM POLITICS:

- YOUR TAXES WILL PAY FOR IT. Look at the non-partisan ballot summary. Proposition 135 "ELIMINATES INDUSTRY FEES FOR PESTICIDE REGULATORY PROGRAMS."
- YOUR TAXES WILL PAY to pick up and dispose of all the pesticides chemical companies don't want any more. That's a BLANK CHECK.
- It actually WEAKENS THE LAW PROTECTING OUR WATER from toxic chemicals.
- It creates ANOTHER STATE AGENCY AND FOUR DIFFERENT "ADVISORY COMMITTEES"—MORE BUREAUCRACY, MORE REPORTS, AND NO ACTION.
- Proposition 135 sets up a "Scientific Advisory Panel" to reconsider the use of pesticides that government scientists already determine cause cancer. Another bureaucratic hold-up that won't do anything.

  Only Proposition 128 (Big Green) phases out those pesticides known to cause cancer and birth defects.
- Chemical companies say 135 will double pesticide testing. More double talk.

PROPOSITION 135 IS CONSUMER FRAUD. IT PROTECTS THE CHEMICAL AND PESTICIDE INDUSTRIES—NOT THE HEALTH OF YOU AND YOUR CHILDREN.

That's why every major respected environmental organization in California opposes Proposition 135.

VOTE NO ON PROPOSITION 135—IT'S A FRAUD!

DAN SULLIVAN
Chair, Sierra Club California

LUCY BLAKE
Executive Director, California League of Conservation Voters

AL MEYERHOFF
Senior Attorney, Natural Resources Defense Council

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Pesticide Regulation. Initiative Statute 135

Argument Against Proposition 135

PROPOSITION 135 IS A FRAUD.

IT IS SUPPORTED BY THE CHEMICAL AND PESTICIDE INDUSTRIES and by big agribusiness.

It is a cynical effort to block the real environmental reforms in Big Green (Proposition 128). These industries concluded they couldn't defeat Big Green by an honest and truthful campaign, so they created 135.

THE TRUE PURPOSE OF 135 IS TO CANCEL PROPOSITION 128, THE ONLY REAL PESTICIDE REFORM MEASURE ON THE BALLOT. Read the small print: Section 87 of Proposition 135 states that "it is the intent . . . to implement this initiative . . . to the exclusion of [Big Green]."

PROPOSITION 135 IS OPPOSED BY ALL THE MAJOR ENVIRONMENTAL ORGANIZATIONS and many public health officials. It was written to protect the interests of the pesticide, chemical and agricultural industries, not the health interests of consumers.

Most of Proposition 135 simply repeats what is already California law. Look at what it really does:

- Proposition 135 claims it will double the testing of pesticide residues on food. More double talk.
- Instead, Proposition 135 would leave on the market those pesticides already known by Environmental Protection Agency scientists and state officials to cause cancer and birth defects. Big Green (128) would phase out the use of those 19 pesticides.
- YOUR TAXES WILL GO TO PAY INCREASED FEES AND COSTS. Another hidden purpose of Proposition 135 is to shift the cost of pesticide testing from the pesticide industries to the taxpayer—estimated to be in the millions of dollars.
- IT WEAKENS LAWS WHICH PROTECT OUR WATER FROM TOXIC CHEMICAL CONTAMINATION.
- Proposition 135 sets up lots of ineffective, scientific-sounding committees to write reports that no one is required to follow.
- It doesn't protect the health of men, women and children who harvest our food.
- It pretends to set up a new system to protect us from cancer-causing pesticides, but instead it allows the pesticide industry to continue the use of those pesticides.
- It will delay urgently needed pesticide reform. It creates a slow and ambiguous process, intentionally designed for years of delay by lawyers, lobbyists and bureaucrats, while pesticides which scientists already know cause cancer or birth defects will continue to endanger the health of our children.

YOU CAN APPLY A SIMPLE VOTING TEST:

If you think that pesticides which scientists already know cause cancer or birth defects should be used in California, then you should go ahead and vote for Proposition 135.

If you want to phase out the use of proven cancer-causing pesticides and want to make our food and water supply safer for our children and for us, VOTE NO ON PROPOSITION 135.

PROPOSITION 128 (BIG GREEN) IS THE ONLY REAL PESTICIDE REFORM ON THE BALLOT.

PROPOSITION 135 IS A CONSUMER FRAUD.

VOTE NO ON PROPOSITION 135.

LUCY BLAKE
Executive Director, California League of Conservation Voters

DAN SULLIVAN
Chair, Sierra Club California

AL COURCHESNE
Family Farmer

Rebuttal to Argument Against Proposition 135

Don't be misled by Tom Hayden and his supporters.

The primary opposition to Proposition 135 comes from Tom Hayden and others who want radical bans of pesticides regardless of scientific fact, or damage to your health or your food supply. They want you to believe that Proposition 135 is backed by the chemical and pesticide industry *despite reports to the Fair Political Practices Commission which prove they are wrong.*

Proposition 135 is the only initiative exclusively addressing pesticide reform and food safety.

Proposition 135 is based on the work of university scientists, public health experts, and medical doctors. It is backed by health professionals, family farmers, dietitians, concerned parents, and others sincerely committed to tougher pesticide controls and cancer prevention.

Proposition 135 is the most comprehensive pesticide reform and food safety law ever proposed. Protection under Proposition 135 exceeds that of other proposals in a number of critical areas:

- Protection for infants, children and seniors
- Doubling safety testing of our food supply
- Development of alternatives to aerial Medfly Malathion spraying
- Stricter scientific standards for assessing health risks
- Ensuring a safe, abundant, and affordable food supply
- Research and development of alternatives to pesticides

Tom Hayden wants you to vote against Proposition 135 in order to boost his own personal political aspirations.

Say *no* to Tom Hayden.

Say *yes* to science over politics.

For food safety laws based on sound medical science which guarantee a safe, abundant, affordable and wholesome food supply, join us in voting YES ON PROPOSITION 135.

DR. JULIAN R. YOUMANS, M.D., Ph.D.
Professor of Neurosurgery
University of California, Davis

DAVID MOORE
President, Western Growers Association

DON BEAVER
President, California Grocers Association

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136 State, Local Taxation. Initiative Constitutional Amendment

Official Title and Summary:

STATE, LOCAL TAXATION. INITIATIVE
CONSTITUTIONAL AMENDMENT

- Abolishes per unit basis for special personal property taxes: requires such taxes based on property value; limits rate of tax to 1% of value.
- Extends ⅔ vote requirement necessary for legislative approval of state general, special taxes to any new, or increase in, such taxes, and to voter approval of special taxes through initiative.
- Requires charter cities to get majority voter approval of new or increased local general taxes.
- Provides temporary exceptions for disaster relief.
- States that conflicting measures on November, 1990 ballot, which impose special taxes with less than ⅔ vote, are invalid.

Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:

- Restricts rate of certain special taxes, could limit future ability of state to raise revenues through such taxes.
- Could limit future passage of initiative statutes proposing approval of special state taxes.
- Prohibits imposition of new, higher general taxes by charter cities without voter approval, thus potentially preventing such cities from increasing revenues.
- Unknown fiscal effect on other local governments.
- Could facilitate local government's enactment of new or higher taxes for disaster relief.

Analysis by the Legislative Analyst

Background

Under the State Constitution, the state and local governments must meet certain vote requirements in order to enact new or higher taxes. Under current law, if the revenue from a tax is earmarked for specific purposes, it is defined as a *special* tax. Conversely, a tax that raises money for general governmental purposes is defined as a *general* tax.

State Taxes

- If the Legislature increases or imposes new state taxes for the purposes of raising revenue, it must do so with a two-thirds vote. However, changes in the tax law which, on balance, do not raise state revenues may be approved by a majority vote.
- State taxes also have been increased through the initiative process by majority vote, although this is currently being challenged in court.
- Some state taxes are based on value; for example, the state sales tax is applied to the sales price of an item. Others are based on units sold, such as the per-pack cigarette tax.
- The state vote requirements are the same for both general and special taxes.

Local Taxes

The vote requirement for a *local* tax increase varies depending on whether it is a general tax or special tax.

- New or higher *special* taxes must be approved by at least *two-thirds* of the voters.
- As regards most *general* taxes, Proposition 62, a statutory measure enacted at the November 1986 election, requires that such tax proposals be approved by (1) two-thirds of the local agency's governing body *and* (2) a majority of the voters.

The requirements of Proposition 62 have been found not to apply, however, to *charter cities*, which may enact a general tax with a majority vote of the city council. Proposition 62's application to other local governments currently is being challenged in court.

Proposal

This constitutional amendment changes the requirements for adopting new or increased state and local taxes. The specific changes include the following:

- *Special Taxes Imposed on Personal Property.* This measure requires that a *special* tax imposed with respect to personal property be imposed on the *value* of the property. While the meaning of these provisions is uncertain, this measure may be interpreted to prohibit new *per-unit* special taxes on cigarettes, alcoholic beverages, and other items. In addition, this measure limits the rate of such taxes to 1 percent of the value of the property. (These restrictions do not apply to *general* taxes.) The measure states that these restrictions apply to taxes enacted on or after November 6, 1990.
- *Vote Requirements for Taxes Enacted by the Legislature.* This measure provides that *any* new or increased state taxes must be approved by two-thirds of the Legislature.
- *Vote Requirements for State Taxes Enacted by Initiative.* In addition, this measure requires that

any state *special* taxes enacted through the initiative process be approved by two-thirds of the voters, instead of the current majority vote requirement. It continues to allow state *general* taxes to be enacted by initiative with a majority vote. The measure states that these requirements apply to all new or increased taxes enacted on or after November 6, 1990.

- *Vote Requirements for Local Tax Increases.* This measure establishes a constitutional requirement that general tax increases imposed by *either* charter cities or other local governments be approved by a majority of the voters.
- *Disaster Relief Provisions.* In order to raise funds for disaster relief, this measure allows certain requirements to be suspended for up to two years. Specifically, the state may suspend: (1) the requirement for two-thirds legislative approval of state tax measures and (2) the restrictions on special taxes imposed with respect to personal property. Suspension of these provisions requires a two-thirds vote of the Legislature and the approval of the Governor. In addition, the governing body of a local government may, with a two-thirds vote, suspend the vote requirements relating to local government tax proposals.
- *Definition of "General" and "Special" Taxes.* This measure defines "general taxes" and "special taxes" for the purposes of voter approval at both the state and local levels. "General taxes" are defined as taxes levied for the General Fund to be used for general governmental purposes. Taxes on motor fuel, however, are specifically defined by this measure as "general taxes." "Special taxes" are defined as taxes levied for a specific purpose *or* deposited in a fund other than the General Fund.
- *Conflicts With Other Measures on This Ballot.* This measure contains language stating how conflicts between it and other measures on this ballot are to be resolved. Generally, this language would resolve such conflicts differently than the State Constitution currently requires. Specifically:

(1) The measure would invalidate *all* of the provisions of a conflicting *constitutional* amendment, if that amendment received fewer votes than this measure. Under current law, only the *conflicting* provisions of the measure receiving fewer votes would be invalid.

(2) A conflicting *statutory* measure would be completely invalidated, no matter how many votes it received.

The measure states that it is in conflict with any other measure on this ballot that enacts any tax, that employs a method of tax computation, or that contains a rate not authorized by this measure, and that any such other measure shall be null and void and without effect.

The legal effect of these provisions is uncertain. Other measures which may conflict with this measure include Proposition 134, the Alcohol Tax Act of 1990; Proposition 133, the Safe Streets Act of 1990; and Proposition 129, the Comprehensive Crime Reduction and Drug Control Act of 1990.

Fiscal Effect

This measure restricts the rate of certain *special* taxes to 1 percent of the value of the property. This provision could limit the future ability of the state to raise revenues through the imposition of such taxes. In addition, by requiring two-thirds voter approval of special state taxes proposed by initiative, this measure could limit the future passage of such measures.

In the case of charter cities, this measure prohibits the imposition of new or higher *general* taxes without voter approval. Thus, it could prevent charter cities from increasing revenues if the voters do not approve future tax proposals. In the case of local governments other than charter cities, the fiscal effect of this measure is unknown, and depends on the outcome of various court cases involving the existing voter approval requirements.

In addition, the measure would enable local governments to enact new or higher taxes for disaster relief without voter approval. This could increase the number of such measures passed in the future.

For text of Proposition 136 see page 129

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136 State, Local Taxation. Initiative Constitutional Amendment

Argument in Favor of Proposition 136

Proposition 136 the Taxpayer's Right to Vote Amendment, guarantees your right to vote on taxes.

- It provides that increases in local taxes must be approved by a vote of the people.
- Proposition 136 provides protection against the imposition of "special taxes"—taxes for special purposes—proposed as ballot initiatives by politicians, special interest groups or others, unless these proposed taxes get a high level of voter support.

Do we need these protections? Yes! Look at the record:

- State and local taxes increased more than 70% between 1982 and 1988, far surpassing the 26.6% inflation rate for this period. This increase amounts to more than $1,350 IN EXTRA TAXES each year for the average California household.
- According to a study conducted by the non-partisan California Taxpayers Association, in just five years, politicians raised taxes more than $300 million WITHOUT A VOTE of the people.
- The United States Supreme Court recently declared a property tax system similar to Proposition 13 unconstitutional. There are three cases now in the California courts which seek to strike down Proposition 13. Before Proposition 13, when the politicians were empowered to determine your property taxes, the rates were three times higher than they are today.
- Proposition 136 won't reduce any existing tax. It won't reduce or eliminate any existing government program or service. By giving taxpayers the right to vote, Proposition 136 will make it more difficult for politicians to use special taxes as a way to get around the limitations of Proposition 13.
- Proposition 136 provides the protection of a ⅔ vote on "special taxes", and requires any new "special tax" on personal property to conform to Proposition 13's 1% limitation. "Special taxes" are usually for the projects of the politicians or special interest groups which sponsor them. The "special taxes" on *this statewide ballot alone* would cost taxpayers more than $2.5 billion—an average of $248 a year for every California household!

Proposition 136 protects you from new or increased special taxes on this ballot and future ballots unless they meet the requirements of this initiative.

Proposition 136 will put the say on new or increased taxes where it belongs: in the hands of you, the voter.

The politicians and special interest groups don't like Proposition 136.

They don't want you to have any right to vote before they create newer and higher taxes on the city and county level.

The politicians and special interest groups don't like the idea of a ⅔ vote to raise your taxes to fund their favorite projects.

And they certainly don't like the idea of people voting before property taxes can be raised.

But more than one million taxpayers do like these ideas. They signed petitions to place Proposition 136 on the ballot.

Please join with the taxpayer organizations founded b[illegible]e original sponsors of Proposition 13. Vote YES on Propos[illegible] 136.

JOEL FOX
President, Howard Jarvis Taxpayers Association

RICHARD GANN
President, Paul Gann's Citizens Committee

Rebuttal to Argument in Favor of Proposition 136

Do you think an initiative supported by 65% of the voters should become law?

The backers of Proposition 136 say NO. They think 65% of the people should *lose* and 35% should win!

With a ⅔ vote requirement, *most* of the people's initiatives would have been taken away.

- Proposition 13—the property tax cut—would have failed!
- The Safe Drinking Water/Toxics initiative would have failed!
- The Victims Bill of Rights would have failed!

Why do the backers of Proposition 136 want to restrict our right of initiative?

Because they want to protect their special interest tax breaks and prevent us, the people, from making sure they pay their fair share of taxes.

And guess who would be hurt by this measure?

You, the taxpayer.

Whether by legislature or initiative, TAX RELIEF WOULD BE HARDER TO ENACT. Providing tax relief to ordinary taxpayers could require a ⅔ vote, not the majority currently required!

THAT'S SPECIAL INTEREST PROTECTION AT THE TAXPAYER'S EXPENSE!

And Proposition 136 exempts sales and gas taxes for highways from the vote requirements for other taxes.

These interests want to let *YOU* pay more, but not close corporate loopholes or raise taxes on the liquor industry.

That's PROOF POSITIVE they don't care about protecting taxpayers. If they did, all taxes would be treated the same.

The real backers of Proposition 136 are the alcohol interests who are spending millions to pass this deceitful measure.

Don't let the special interests steal our initiative process.

VOTE NO ON 136.

POLICE CHIEF RON LOWENBERG
President, Police Chiefs Department of the League of California Cities

DOROTHY LEONARD
President, California State Parent-Teacher Association (PTA)

CAROLE WAGNER VALLIANOS
President, League of Women Voters of California

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State, Local Taxation. Initiative Constitutional Amendment 136

Argument Against Proposition 136

Proposition 136 is one of the most fraudulent initiatives ever put before California voters.

It calls itself the "right to vote." In reality it *limits* the precious right to vote, particularly when the vote might go against the special interests.

If 65% of the voters support an initiative, and the special interests get 35% of the vote, they win. THAT'S UNDEMOCRATIC AND UNFAIR.

And it says it's for "taxpayers" when in fact *it has been paid for by millions of dollars from out-of-state liquor interests.*

The fact is: Proposition 136 is A SPECIAL INTEREST EFFORT BY THE LIQUOR INDUSTRY TO PROTECT ITSELF FROM *EVER* BEING TAXED.

The liquor lobby and other special interests propose in this measure to *restrict the people's right of initiative.*

Here's their scheme.

1. Proposition 136 makes it nearly impossible to raise excise taxes. But alcohol and cigarette taxes are mostly excise taxes. So if Proposition 136 passes, *the liquor and tobacco lobbies will be protected forever from additional excise taxes.* What a deal!

2. Proposition 136 would *eliminate accountability to taxpayers.* If voters want to control how their tax dollars will be spent, Proposition 136 would require a 66% vote. But if all spending decisions are left to the politicians, only a majority vote is required.

[illegible]izens would be penalized if they try to tell the government how to spend their own tax dollars! If citizens try to tax polluters to pay for clean-up, or want to fight crime or help schools, they would have a virtually impossible task.

Why should out-of-state liquor interests tell citizens that they have to achieve a 66% vote to hold the politicians accountable?

3. This fraudulent scheme tries to wipe out any other measure on the same ballot which does not follow these special interest rules. It's so tricky it even has a special provision which says it takes effect before any other measure on the ballot, even though voters vote on all measures at the same time!

For example, this BALLOT VIRUS or POISON PILL could prevent a majority from closing corporate loopholes to pay for anti-drug programs. It's so broad it would prevent voters from requiring repeat violent offenders to serve out their whole prison sentence, because that provision is connected to anti-crime funding.

This measure was financed by *over $1.5 million from out-of-state liquor interests,* such as:

$300,000 from a producer of beer cans in Illinois.
$150,000 from a malt company in Washington.
$80,000 from a brewer in Wisconsin.
$84,000 from a hard liquor company in New York.
$100,000 from a liquor packaging producer in Louisiana.

These same out-of-state special interests are likely to spend millions more to convince you that they are only small taxpayers, seeking the right to vote. What a fraud!

Don't let the liquor industry destroy the right of initiative. Keep government accountable. Protect the right to vote. Preserve the democratic process. Say NO to the special interests.

Vote NO on Proposition 136.

BILL HONIG
State Superintendent of Public Instruction

SENATOR ED DAVIS
Former Police Chief, City of Los Angeles

DAN TERRY
President, California Professional Firefighters

Rebuttal to Argument Against Proposition 136

The opposition argument to Proposition 136 is a wild "conspiracy theory" which falls apart when the facts are examined.

PROPOSITION 136 WILL NOT PREVENT THE LIQUOR INDUSTRY OR ANY OTHER INDUSTRY FROM BEING TAXED.

A majority vote can still raise general taxes including excise taxes on liquor, tobacco or any other consumer product.

Special taxes, including those involving income taxes, sales taxes and some taxes on consumer goods will require a ⅔ vote. This prevents politicians from "raiding the treasury" by diverting your tax dollars to their pet projects.

A ⅔ VOTE PROTECTS YOU AGAINST UNNECESSARY TAXES.

A tax which is necessary WILL receive a ⅔ vote.

Between November 1987 and April 1990, 171 local tax measures requiring a ⅔ majority were voted on. 71 received a ⅔ vote and were approved.

IT IS NOT INTENDED THAT PROPOSITION 136 WILL [illegible]IRE A ⅔ VOTE FOR ANTI-CRIME LAWS, NOR WILL [illegible] SO.

Only taxes would be affected by Proposition 136.

THE OPPONENTS OF PROPOSITION 136 WANT TO RAISE YOUR TAXES.

Bill Honig is campaigning for a $3.1 billion increase in the state income tax.

Ed Davis is pushing for another $730 million increase in the state sales tax.

PROPOSITION 136 IS SPONSORED BY THE ORGANIZATIONS FOUNDED BY JARVIS AND GANN. IT IS ENDORSED BY THE NATIONAL TAXPAYERS UNION.

106,739 individual taxpayers gave an average of $8.81 to PROPOSITION 136's campaign.

THIS IS A CAMPAIGN OF TAXPAYERS vs. TAXRAISERS.

Please join your fellow taxpayers and VOTE YES.

JOEL FOX
President, Howard Jarvis Taxpayers Association

RICHARD GANN
President, Paul Gann's Citizens Committee

137 Initiative and Referendum Process. Initiative Constitutional Amendment

Official Title and Summary:

INITIATIVE AND REFERENDUM PROCESS.
INITIATIVE CONSTITUTIONAL AMENDMENT

- Prohibits legislative enactment from becoming effective without voter approval of any statute that provides the manner in which statewide or local initiative or referendum petitions are circulated, presented, certified or submitted to the electors.
- Also requires voter approval of statutes that establish procedures or requirements for statewide or local initiatives or referendums.

Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:

- The measure could result in unknown increased state and local administrative costs for preparation, printing and mailing of ballot information and verifying election results to extent that changes in requirements for initiatives and referendums are submitted to voters.
- State General Fund costs could range from insignificant to $200,000 per measure for each statewide election.
- Counties' costs could range from insignificant to $100,000 per measure for each statewide election.

Analysis by the Legislative Analyst

Background

The State Constitution provides two methods for changing state and local laws, and for amending the Constitution. The first is the *legislative* process, by which elected state and local representatives of the people enact new laws. Specifically, the state Legislature may propose new laws, which take effect if signed by the Governor. The Legislature may also propose amendments to the Constitution, which take effect if approved by a majority of the voters. Local legislative bodies, such as city councils and county boards of supervisors, may enact new local laws known as ordinances by a majority vote of the legislative body. They may also propose amendments to city and county charters, which take effect if approved by their voters.

Under the second method, known as the *initiative* process, the voters can directly enact state and local laws, charter amendments and Constitutional amendments. A similar process, known as the *referendum*, allows the voters to challenge laws enacted through the legislative process by requiring that they be placed on the ballot for approval by the voters. An initiative or referendum measure may be placed on the ballot if sponsors gather a sufficient number of signatures of registered voters.

State law sets forth detailed procedures and requirements for statewide and local initiatives or referendums, although city and county charters also may contain such procedures and requirements for local measures. These laws include requirements for the format of the petition used to gather signatures, limits on the number of days during which signatures may be obtained, the procedures used to verify the signatures, and a large number of other provisions.

Proposal

This measure requires the voters to approve any changes in state law governing (1) the manner in which statewide or local initiative or referendum petitions are circulated, presented, or certified, and (2) the manner in which measures are submitted to the voters.

Fiscal Effect

The measure could result in unknown increased state and local administrative costs, to the extent that proposed changes regarding the procedures and requirements for initiatives and referendums are submitted to the voters. The increased costs would result from preparing, printing and mailing ballot information and verifying election results. State costs to the General Fund could range from insignificant to in excess of $200,000 per measure for each statewide election. Local costs to counties could range from insignificant to in excess of $100,000 per measure for each statewide election.

For text of Proposition 137 see page 130

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137 Initiative and Referendum Process. Initiative Constitutional Amendment

Argument in Favor of Proposition 137

Proposition 137 is a simple, one paragraph initiative which GUARANTEES YOUR RIGHT TO VOTE ON STATEWIDE AND LOCAL BALLOT PROPOSITIONS.

Proposition 137 would require a vote of the people before state or local politicians can change any of the rules which determine how state and local propositions or referenda can be placed on the ballot.

WHY IS PROPOSITION 137 NECESSARY?

Recently, the state legislature quietly slipped in one sentence in a law which nearly DOUBLED the number of signatures which are required to place city or county initiatives or referenda on the ballot.

Since then, a number of new laws have been proposed in the state legislature which would make state ballot propositions more confusing and more difficult to place on the ballot.

THE INITIATIVE IS THE PEOPLE'S LAW. THE PEOPLE SHOULD HAVE THE RIGHT TO VOTE BEFORE ANY CHANGES ARE MADE IN THE INITIATIVE PROCESS.

Consider how much you would lose if the politicians are allowed to restrict your right to pass initiatives. Here are just some of the things that would not be part of California law except for the initiative process:

The Death Penalty
The Coastal Commission
Proposition 13—Property Tax Limit
Proposition 103—Insurance Reform
The Gann Government Spending Limit
Proposition 65—The Anti-Toxics Law
The State Lottery

You may have voted for some of these initiatives. You may have voted against others. But you had the right to vote on all of them.

PROPOSITION 137 WILL PROTECT YOUR RIGHT TO VOTE ON INITIATIVES, NOW AND FOREVER.

If any changes in the initiative process are necessary, they can still be enacted, but only after the people vote to approve them.

Never again will the politicians be able to sneak past the people technical changes in the law governing initiatives—as they did by nearly DOUBLING the number of signatures required to place local initiatives on the ballot.

Your right to pass initiatives has given California the Death Penalty, Proposition 13, Insurance Reform, and local Environmental Protection Laws. Don't let the politicians tamper with your rights.

Vote YES on 137. PROTECT YOUR RIGHT " VOTE.

JOEL FOX
President, Howard Jarvis Taxpayers Association
RICHARD GANN
President, Paul Gann's Citizens Committee

Rebuttal to Argument in Favor of Proposition 137

The late Howard Jarvis and Paul Gann are *not* sponsoring this initiative. It is sponsored by organizations that make money on ballot initiatives using their names.

Groups like these don't want *you* to know that fact—so they oppose reforms by the legislature that would force them to disclose the truth to the public.

Proposition 137 was written to make it harder for the legislature to bring needed change and reform to our initiative process.

PROPOSITION 137 WOULD HINDER NEEDED INITIATIVE REFORMS

This measure would prevent the legislature from passing laws to protect us—stopping deceitful and misleading initiative campaign practices—without costly barriers and years of delay.

In 1988, many voters signed initiative petitions believing they would lead to insurance reform—they weren't told the measures were bankrolled by the insurance industry.

And that's really the point. The backers of Measure 137 *don't want you* to know who's paying the bills to collect signatures for their ballot measures.

PROPOSITION 137 DOESN'T SAVE TAX DOLLARS—BUT IT COULD RAISE YOUR TAXES

Local initiatives required a small percentage of voters' signatures to qualify. With fewer and fewer people taking the trouble to vote, it became easier and easier to qualify costly *local tax increase* initiatives.

When this number fell to as few as 10% of the people, the legislature changed this to make it more reflective of the general public. Proposition 137 would *halt* such tax saving reforms.

Preserve the initiative process.

Vote *no* on 137.

JUDGE BRUCE W. SUMNER ***(ret.)***
Former Chair, Constitution Revision Commission
TOM NOBLE
President, California Association of Highway Patrolm
DANIEL H. LOWENSTEIN
Former Chair, Fair Political Practices Commission (FPP

Initiative and Referendum Process. Initiative Constitutional Amendment 137

Argument Against Proposition 137

Proposition 137 is a power grab by special interests to block reform of the initiative process.

The initiative process has long been one of our most important instruments for popular control of government in California.

However, the initiative process is being used increasingly by special interest groups to qualify or defeat measures for their own benefit at the expense of ordinary citizens.

To prevent encroachment of the initiative process by special interests, reforms are needed. Proposition 137 is a special interest attempt to make sure these reforms never see the light of day.

What kind of reforms would be impeded by Proposition 137?

REFORMS ARE URGENTLY NEEDED THAT WILL:

- Force proponents to tell the public who is paying the bills for an initiative campaign.
- Prevent deceitful and misleading campaign practices.
- Limit the ability of wealthy interests to buy a place on the ballot for propositions that have little or no popular support.
- Make clearer the cost to the taxpayer of special interest initiatives and spending schemes.

Proposition 137 creates costly barriers against these and other important reforms that benefit all of us. At best it will require a costly election and years of delay. At worst, interest groups will spend millions to confuse the issue and defeat popular reforms.

The supporters of Proposition 137 do not suggest similar barriers for special interest benefits such as tax loop holes for themselves or weakening environmental protections. These restrictions will apply only to the initiative process, the special instrument by which we the people control our government.

Don't be fooled—VOTE NO ON PROPOSITION 137.

DANIEL H. LOWENSTEIN
Former Chair, Fair Political Practices Commission

ED FOGLIA
President, California Teachers Association

HOWARD L. OWENS
President, Congress of California Seniors

Rebuttal to Argument Against Proposition 137

Proposition 137 GUARANTEES THE PEOPLE THE RIGHT TO VOTE on any proposed change to the initiative process. Nothing more.

If there is a power grab going on, it's being waged by POLITICIANS WHO WANT TO RESTRICT OR ELIMINATE THE INITIATIVE PROCESS.

Recently, the state legislature quietly slipped one sentence into a law which nearly DOUBLED the number of signatures that are required to place initiatives on the ballot in the largest cities in California. Why trust the Legislature alone to change the initiative process? Let the people vote.

Proposition 137 does nothing to prohibit reform nor does it erect any barriers to reform. If reforms are really needed, let the people approve them.

PROTECT YOUR RIGHTS. Before politicians can make more changes that limit your right to vote on initiatives, VOTE YES ON PROPOSITION 137.

JOEL FOX
President, Howard Jarvis Taxpayers Association

RICHARD GANN
President, Paul Gann's Citizens Committee

QUENTIN L. KOPP
State Senator, Independent—8th District

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138 Forestry Programs. Timber Harvesting Practices. Bond A-- Initiative Statute

Official Title and Summary:

FORESTRY PROGRAMS. TIMBER HARVESTING PRACTICES.
BOND ACT. INITIATIVE STATUTE

- Authorizes $300,000,000 general obligation bond issue to fund, subject to Legislature approval, program for loans, grants to public entities, others for forest and park restoration, urban forestry projects, reforestation of private timberlands under 5,000 acres.
- Limits timber cutting practices, requires state-approved timber and wildlife management plans, on certain private timberlands exceeding 5,000 acres.
- Mandates timberland, wildlife, global warming studies.
- Authorizes state acquisition of designated timberlands, suspends state's eminent domain power for 10-year period over other timberlands.
- Urges Congress ban foreign timber exports.
- Provides between competing timber initiative(s) this measure overrides other(s).

**Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:**

- If all authorized bonds are sold at 7.5 percent interest and paid over the typical 20-year period, state General Fund will incur about $535 million in costs to pay off bond principal ($300 million) and interest ($235 million).
- Estimated average annual costs of bond principal and interest is $22 million.
- Annual costs of approximately $3.2 million, funded through sales of state-owned timber, to administer grants program. Initial, increased annual state costs of over $1 million to review timber management plans, which could over time be more than offset by savings resulting from reduced periodic state regulatory reviews.
- One-time state costs of about $1.1 million for climatological studies, fully offset by revenues from new regulatory fees. Unknown effect on revenues from other state taxes.

Analysis by the Legislative Analyst

Background

California contains about 19 million acres of forestland that can support logging operations. Of this total:

- Two million acres are in parks, wilderness areas, or other areas where logging is prohibited.
- Nine million acres are owned by the federal government where logging is regulated by the United States Forest Service.
- Eight million acres are owned by private individuals or by the state. Logging activities on these timberlands are regulated by the California Department of Forestry and Fire Protection (CDFFP), according to rules adopted by the Board of Forestry (BOF). The regulations cover several aspects of logging operations.

Harvesting Plan Review. Logging on nonfederal lands is prohibited unless it complies with a timber harvesting plan (THP) prepared by a registered professional forester and approved by the Director of the CDFFP. The THP must provide various information, including the amount of timber to be cut, the cutting method, erosion control measures, and special provisions to protect unique areas or wildlife that exist within the harvest area. The THP is valid for three years, and a separate THP must be approved for each specific piece of property that the timberland owner intends to log. The CDFFP has 25 days to review the plan and to consider information provided by other agencies and the public.

Cutting Methods. Loggers are allowed to use different methods to harvest timber. Among others, these methods include clearcutting, which involves cutting all the trees on a site at one time, and the selection method, which involves periodically cutting selected trees on a site. Regardless of which method is used, the timberland owner must ensure that a specified minimum number of trees are growing on the land within five years after the logging operations.

Forest Improvement Program. In addition to regulating logging, the CDFFP also provides matching grants to nonindustrial timberland owners (owners of *less* than 5,000 acres of timberland) to help improve their timber production. Currently, the CDFFP spends about $3 million annually for this program.

Proposal

In summary, this measure:

- Revises current restrictions on logging operatio[illegible] nonfederal lands.
- Requires the state to conduct studies on "greenhouse gases" and establishes a new fee to pay for these studies.

- Authorizes the sale of $300 million in general obligation bonds to pay for a grant program to public and private entities for forest improvements.
- Places new restrictions on state acquisitions of private lands.
- Contains language stating how conflicts between it and two other measures on this ballot are to be resolved.

Restrictions on Logging. This measure generally prohibits, beginning January 1, 1994, industrial timberland owners (owners of *more* than 5,000 acres of timberland) from logging their lands unless the harvesting operations comply with a "Long-term Industrial Timber Management Plan" (TMP) approved by the CDFFP. The TMP must include, among other things, (1) a wildlife management plan prepared by a wildlife biologist who is certified by a professional society and (2) an analysis of the impacts reasonably expected to result from implementing the plan. Unlike a THP required under current law, which is valid for three years and which covers only one specific piece of property, the TMP required by this measure would be valid for an unlimited time period and could cover all of the timberland owner's property.

In addition, this measure (1) prohibits clearcutting in privately owned old-growth forests and (2) places certain restrictions on clearcutting in other privately-owned forests. Under the measure, however, harvesters would not be precluded from using methods currently approved by the BOF in which all trees on a site could be harvested over a three-year period. The [illegible]ure also prohibits clearcutting in areas within 100 feet of state highways, parks, and publicly owned recreational areas. Finally, the measure requires the BOF, by 1996, to assess various potential impacts of restricting clearcutting.

"Greenhouse Gas" Studies and One-time Fee. This measure requires the state to contract for studies on (1) the effect of forests in California on greenhouse gases (air pollutants that may contribute to changes in climate), (2) the relationship of timber growing and harvesting in California to greenhouse gases, and (3) alternative management programs for forestland that will minimize the production of greenhouse gases. The measure also imposes, from November 7, 1990 through December 31, 1991, a $3 per acre fee for all acreage covered by THPs submitted during that period. Revenue from this fee would be used to pay for the studies on greenhouse gases.

Forest Improvement Bond Programs. The bond money from this measure would be used for (1) loans and grants to nonindustrial timberland owners to help them improve timber production on their lands ($120 million), and (2) a new program of grants to public agencies and nonprofit organizations for urban and rural tree planting and forest restoration projects ($180 million). The CDFFP would administer these grant programs.

The state is obligated to pay the principal and interest costs on general obligation bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from the state personal income and corporate taxes and the state sales tax.

Restrictions on State Acquisitions of Private Lands. This measure also restricts for 10 years the state's power to acquire, without the agreement of the timberland owner, privately owned timberlands in the redwood region of northern California.

Conflicts With Other Measures on This Ballot. This measure contains language that states how conflicts between this measure and other measures on this ballot are to be resolved. Specifically, the measure provides that if both it and either Proposition 130 (the Forest and Wildlife Protection and Bond Act of 1990) or Proposition 128 (the Environmental Protection Act of 1990) are passed by the voters and this measure receives more votes than the other measures, then it would invalidate (1) all the provisions of Proposition 130 and (2) those provisions in Proposition 128 pertaining to the acquisition of old-growth redwood forests. The legal effect of this language is uncertain. This is because the State Constitution provides that only the *conflicting* provisions of the measure that receives the greater vote prevails.

Fiscal Effect

General Obligation Bonds. For these types of bonds, the state typically would make principal and interest payments from the state's General Fund over a period of about 20 years. If all of the bonds authorized by this measure are sold at an interest rate of 7.5 percent, the cost would be about $535 million to pay off the principal ($300 million) and interest ($235 million). The average payment would be about $22 million per year.

Administrative Costs and Fee Revenue. In the short run, the CDFFP would incur increased costs of over $1 million annually to review TMPs submitted by industrial timberland owners. These costs would be paid from the General Fund. In the long-run, however, these additional costs could be more than offset by savings resulting from eliminating the need to periodically review harvesting plans. The current cost of reviewing these plans is about $5 million annually.

The CDFFP would incur annual special fund costs of about $3.2 million to administer the forest improvement grant programs.

The measure also would result in one-time costs of about $1.1 million for studies on the effect of forests on greenhouse gases and climate change. These costs would be paid from the Timberland Wildlife Management Fund, which the measure creates, and would be offset fully by revenue from the new fee on timber harvest plans.

Potential Effect on Revenues. This measure could increase or decrease the revenue that the state receives from various taxes, depending on the effect of the measure on the net value of harvested timber.

For text of Proposition 138 see page 130

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138 Forestry Programs. Timber Harvesting Practices. Bond Act. Initiative Statute

Argument in Favor of Proposition 138

Most people agree on one issue: California's remaining old growth forests must be protected for future generations.

Two ballot propositions offer dramatically different approaches to that end. Proposition 138 is the REASONABLE choice. It strikes an important balance between environmental, human and economic concerns. Proposition 138 is also more COMPREHENSIVE in scope, providing for WILDLIFE PROTECTION and the PLANTING OF TREES IN URBAN AREAS.

Titled *"The Global Warming and Clear Cutting Reduction, Wildlife Protection & Reforestation Act of 1990"*, Proposition 138 will:

BAN CLEARCUTTING IN OLD GROWTH REDWOOD FORESTS AND LIMIT CLEARCUTTING ELSEWHERE

- Ban clearcutting in old growth redwood and other old growth forests.
- Require timber harvesters to reduce clearcutting in all other forests by 50% over the next five years.

ENACT A MASSIVE TREE PLANTING PROGRAM TO REDUCE GLOBAL WARMING

- Provide for a $300 million bond to plant millions of trees in cities and other areas throughout California. A tree planting program such as this is vitally important to help reduce global warming.

ENACT STRICT FOREST MANAGEMENT REGULATIONS AND PROTECT WILDLIFE

- Require timber companies to prepare long-term management plans that would protect wildlife and ENSURE MORE TREES ARE PLANTED THAN CUT. California timber harvest laws are already the strictest in the country. *Proposition 138 makes them even tougher!*

KEEP TIMBER HARVEST DECISIONS AWAY FROM SACRAMENTO POLITICIANS

- Keep harvesting practices in the hands of *licensed professional foresters and wildlife biologists* and away from Sacramento politicians and bureaucrats.

REQUEST CONGRESS TO BAN THE EXPORT OF LOGS

- Proposition 138 formally requests Congress to ban the export of logs to keep California jobs *in* California.

Proposition 138 is supported by licensed professional foresters, wildlife biologists and other experts in the forestry field.

The other ballot measure addressing the protection of California forests is Proposition 130. It represents a far more radical approach. Persons associated with the radical environmental group Earth First!, best known for driving spikes into trees, vandalizing logging equipment and other activities that harass timber workers and their families, support Proposition 130.

Proposition 130 would:

- Cut back timber harvesting by an unprecedented 70%!
- Put more than 100,000 Californians out of work.
- Significantly increase consumer prices for new homes, timber and paper products.
- Set up a costly bureaucracy and politicize the timber approval process.
- Give financial incentives for special interest groups to file lawsuits against the government, with taxpayers footing the bill.
- Cost taxpayers billions, according to the independent Legislative Analyst.

Protecting our redwood and other forests is a goal for which all Californians must strive. Only one measure on the November ballot, Proposition 138, offers a reasonable plan to meet this goal.

In addition, Proposition 138 will enact a massive tree planting program, require strict forest management regulations, protect wildlife and keep timber harvest decisions away from the Sacramento political arena.

VOTE YES on PROPOSITION 138 and NO on PROPOSITIO[illegible]

GERALD L. PARTAIN
Former Director, California Department of Forestry and Fire Protection

PHILLIP G. LOWELL
Executive Director, Redwood Region Conservation Council

SCOTT WALL
President, California Licensed Foresters Association

Rebuttal to Argument in Favor of Proposition 138

The big timber companies want you to believe that their Proposition 138 protects the environment.

Close examination of Proposition 138 reveals the big timber companies are still up to their old tricks.

Proposition 138 is JUST A SMOKESCREEN to cover their continued devastation of our mountainsides, waterways and wildlife—while MAKING YOU PAY FOR IT.

They say they would toughen timber harvest laws. But Proposition 138 actually EXEMPTS THE BIG TIMBER COMPANIES from important safeguards in existing environmental laws!

They say they would expand State Parks. But Proposition 138 provides NOT ONE PENNY TO HELP OUR PARKS!!

They say they offer a reasonable choice. But CONSERVATION AND ENVIRONMENTAL GROUPS ARE UNANIMOUSLY OPPOSED to Proposition 138 because it destroys the most magnificent symbols of our natural heritage.

Simply, the big timber companies went too far.

They opposed every effort in the Legislature to slow the RAPID DESTRUCTION OF OUR FORESTS. The public finally got fed up and placed on the ballot Proposition 130, designed by forestry experts and environmental groups to protect our forests.

Panicked, the big timber companies scrambled to create Proposition 138 to defeat Proposition 130 and step up their destruction of our forests.

For example, while claiming to support urban tree planting, Proposition 138 actually GIVES $120 MILLION OF YOUR TAX DOLLARS TO PRIVATE FOREST LAND OWNERS!

The big timber companies have waged A SHAMEFUL CAMPAIGN.

They apparently think you aren't smart enough to see through their scam. Prove them wrong.

VOTE NO on PROPOSITION 138.

GAIL LUCAS
State Forest Practices Task Force Chair Sierra Club

JAY D. HAIR
President, National Wildlife Federation

JOHN H. ADAMS
Executive Director, Natural Resources Defense Council

Forestry Programs. Timber Harvesting Practices. Bond Act. Initiative Statute 138

Argument Against Proposition 138

The big timber companies, who have been cutting down our forests in what one newspaper called "A LOGGING FRENZY," are the same companies who wrote and PAID FOR THIS deceptive initiative.

These are the same timber companies who clearcut ancient redwood forest groves, leaving not a single tree standing.

These same companies then burn the remaining stumps, leaving a charred black desert devoid of all plants and wildlife. Landslides and massive erosion result. Streams and rivers are choked with mud, destroying salmon and trout. Wildlife disappears.

California's once BEAUTIFUL MOUNTAINS BECOME MOONSCAPES.

Who's responsible? GIANT, GREEDY TIMBER COMPANIES. Like the company controlled by the corporate raider who bought it with junk bonds.

Now he has tripled the cutting of the largest and oldest living trees on earth—just to pay off the junk bond debt and to collect a salary and bonus of $8 million!

He and the timber industry want you to believe that Prop. 138 will protect the forests.

But Prop. 138 is OPPOSED BY FORESTRY EXPERTS, professionals in forest management, AND MORE THAN 100 ENVIRONMENTAL GROUPS including the Sierra Club, Planning and Conservation League, Audubon Society Chapters, and the California League of Conservation Voters.

READ THE SMALL PRINT written by timber company attorneys. It will make you vote NO on Prop. 138 because:

- Proposition 138 allows clearcutting by big timber companies.
- Proposition 138 ALLOWS TIMBER COMPANIES TO CHOP DOWN ALL BUT ONE LONELY TREE PER ACRE, AND THEN COME BACK LATER AND GET THAT ONE!
- Proposition 138 would subsidize timberland owners with public funds.
- Proposition 138 will cause MASSIVE JOB LOSSES and a future TIMBER FAMINE by allowing the timber companies to cut down our forests faster than they grow.
- Proposition 138 TAKES JOBS FROM CALIFORNIANS by allowing continued export of logs to foreign countries.
- Proposition 138 INCREASES THE CHANCE OF GLOBAL WARMING by allowing the continued destruction of our forests.
- Proposition 138 ABOLISHES THE FOREST REFORMS and protections of Prop. 130, placed on the ballot by environmentalists to save our forests.

Vote NO on Prop. 138. IT'S A HOAX—created and paid for by the same people who are destroying our forests.

It was created for one reason: to stop the forestry protection and reforms of Prop. 130.

To get their way, the timber companies will say anything and spend a lot of money to get your vote.

We cannot afford to lose our ancient redwood forests.

DON'T BE FOOLED. This timber industry measure is like asking the fox to guard the henhouse!

PROTECT CALIFORNIA'S FUTURE.

Please VOTE NO on Prop. 138.

GEORGE FRAMPTON
President, Wilderness Society

MAURICE GETTY
President, California State Park Rangers Association

PHILLIP S. BERRY
Former Vice Chair, California Board of Forestry

Rebuttal to Argument Against Proposition 138

The opponents of Proposition 138 seem to have gotten a few of their facts WRONG.

But don't take our word for it, CHECK FOR YOURSELF!

READ THE OFFICIAL ANALYSIS of Proposition 138 prepared by the state's independent, non-partisan Legislative Analyst. It's located in your voter pamphlet along with the initiative.

Here's what you'll find:

- Proposition 138 BANS CLEARCUTTING in OLD GROWTH REDWOOD and OTHER OLD GROWTH FORESTS.
- Authorizes bonds to the Department of Forestry and Fire Protection to PLANT TREES IN CITIES TO HELP REDUCE GLOBAL WARMING.
- Prohibits timber companies from harvesting lands unless a thorough analysis has been undertaken by a CERTIFIED WILDLIFE BIOLOGIST identifying NATURAL HABITATS and ENDANGERED SPECIES that must be PROTECTED.
- Requests Congress to PROHIBIT the EXPORTS of LOGS from state timberlands to KEEP CALIFORNIA JOBS IN CALIFORNIA.
- EXPANDS OUR STATE REDWOOD PARKS.

Proposition 138 is SUPPORTED BY FORESTRY EXPERTS, including registered professional foresters and wildlife biologists.

It is OPPOSED BY PERSONS ASSOCIATED WITH THE RADICAL ENVIRONMENTAL GROUP EARTH FIRST! that want to dismantle, rather than improve time-tested forestry laws.

READ THE INITIATIVE! It's all there in black and white.

Then YOU decide.

VOTE YES ON PROP 138!

SUE GRANGER-DICKSON
Wildlife Biologist

139 Prison Inmate Labor. Tax Credit. Initiative Constitutional Amendment and Statute

Official Title and Summary:

PRISON INMATE LABOR. TAX CREDIT.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE

- Amends state Constitution to permit state prison and county jail officials to contract with public entities, businesses and others, for inmate labor.
- Limits inmate labor during strike or lockout situations.
- Adds statutes requiring state prison director to establish joint venture programs for employment of inmates.
- Requires inmate wages be comparable to non-inmate wages for similar work.
- Makes inmate wages subject to deductions for: taxes, room and board, lawful restitution fines or victim compensation, and family support.
- Allows inmate's employer ten percent of wage tax credit against defined state taxes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- This measure would likely result in net savings to the state because of wage deductions to offset cost of incarceration, reduction in amount of time spent in prison due to participation in joint venture program, and decreased state and local costs due to additional family support payments reducing public assistance costs.
- These savings would be partially offset by costs due to revenue loss resulting from employer tax credits and possible additional administrative costs to operate program.
- The magnitude of savings is impossible to quantify.
- The measure's impact on local governments is impossible to estimate because the contents of loc ordinances implementing contracts for use of jail labor are unknown.
- Unknown indirect fiscal effects may occur to the extent this measure affects the number of jobs available in the private sector.

Analysis by the Legislative Analyst

Background

Currently, some inmates in state prison and local jails participate in various work programs. There are approximately 37,000 inmates currently working in the state prison system. Of that number, nearly 8,000 work in prison industries in various jobs, such as manufacturing furniture for state and local government offices. The remainder perform support services related to the operation of the prison system—for example, maintaining prison grounds. The programs are intended to reduce inmate idleness, minimize the cost of imprisonment, provide an incentive for good behavior, and provide job training.

There are restrictions on the use of inmates to perform work. For example, the California Constitution prohibits contracting with any private agency for the use of state prison or local jail inmate labor. In addition, if inmates produce a product, the product can only be sold to state and local governments. In most state prisons, there are not enough jobs for all the inmates. In local jails, the number and types of jobs vary.

State prison inmates who participate in work programs earn "credits" which reduce the amount of time they spend in prison. Work programs also provide inmates an opportunity to earn money for use upon release from prison. Inmates in local jails may receive similar credits.

Proposal

This measure amends the California Constitution to allow state and local inmates to perform work for private organizations.

The key provisions of the measure are described below.

Contracts for the Use of Prison and Jail Labor. The measure allows state prison and local jail officials to contract with private organizations for the use of inmate labor. State prison contracts would be governed by rules and regulations established by the Director of Corrections. Jail contracts would be governed by local ordinances.

Joint Venture Program in State Department of Corrections. This measure requires the state to establish inmate labor contracts through a new "joint venture" program. The program requires the Department of Corrections to enter into joint venture programs with public and private organizations or businesses for the purpose of employing inmates. The measure establishes the Joint Venture Policy Advisory Board to govern the program. The board would consist of the Director of Corrections, the Director of the Employment Development Department, and five members appointed by the Governor. The members appointed by the Governor include one member representing industry, one member representing organized labor, and three public members.

Companies that participate in a joint venture program would be allowed to lease real property on prison grounds at or below market rates in order to set up work programs. Products and services produced by the programs would be available for sale to the public.

The measure establishes provisions regarding inmate wages, tax credits, and the use of inmates to replace striking workers.

Inmate Wages. The measure requires that inmates be paid wages that are comparable to the wages paid to noninmate employees for similar work.

The measure authorizes the Director of Corrections to deduct up to 80 percent of an inmate's wages for: (1) federal, state, and local taxes, (2) charges for the costs of the inmate's room and board in prison, (3) contributions to a victim restitution fund, and (4) support of the inmate's family. The specific amounts withheld for room and board, victim restitution, and family support are left to the discretion of the Director of the Department of Corrections.

Tax Incentives. The measure provides state income tax incentives in the form of tax credits for businesses to enter into a joint venture program with the state Department of Corrections. Participating companies would be allowed a tax credit of 10 percent of the amount of wages paid to each inmate. This means that for each dollar the employer pays an inmate in the program, the employer can reduce business income taxes owed to the state by 10 cents. (The credit does not apply to any programs that employ local jail inmates.)

Labor Disputes. The measure restricts the ability of contractors to replace striking workers with inmate labor.

Contracts for Local Jail Labor. The measure allows contracting for the use of local jail inmate labor and provides that such contracts be governed by local ordinances. However, the measure does not specify the content of the local ordinances.

Fiscal Effect

This measure would likely result in net savings to the state. Savings would be generated by (1) reductions in the amount of time inmates would spend in prison as a result of earning work credits from participation in the joint venture program, (2) deducting a portion of prison inmates' wages to offset the cost of incarceration, and (3) decreased state and local costs due to additional family support payments reducing public assistance costs. These savings would be partially offset by costs due to (1) the state revenue loss resulting from the employer tax credits and (2) possible additional administrative costs to operate the program. The magnitude of the savings is impossible to quantify and would depend on the number of inmates employed, the amount of wages paid, and the extent to which the state withholds inmate wages to offset the cost of incarceration.

It is not possible to estimate the impact of the measure on local governments. This is because local ordinances that would implement contracts for use of jail labor are not required to contain specific fiscal provisions.

In addition to the direct fiscal effects, the measure also could have unknown indirect fiscal effects on the state and local governments, depending on how it affects such factors as the number of jobs in the private sector and the profits of firms choosing to use inmate labor.

For text of Proposition 139 see page 136

139 Prison Inmate Labor. Tax Credit. Initiative Constitutional Amendment and Statute

Argument in Favor of Proposition 139

It now costs taxpayers $20,000 per year to maintain a convicted criminal in state prison. Think about it—$20,000 per convict per year for food, clothing, shelter, medical and dental expenses and to provide adequate security.

All told, California taxpayers are paying $2 BILLION every year to keep over 95,000 criminals behind bars!

Prisoners don't work to pay part of their upkeep. ISN'T IT ABOUT TIME THAT THEY DID?

Prisoners don't work to pay restitution to their victims. ISN'T IT ABOUT TIME THAT THEY DID?

You can make it happen by voting YES ON PROPOSITION 139.

For years, we have tried to get the California Legislature to pass a Constitutional Amendment that would put prisoners to work.

All the facts support this idea:

1. Taxpayers would save because a portion of inmates' wages would go toward paying part of their room and board, taxes, and compensation for victims of their crimes.
2. Prisoners would learn good work habits and job skills that would help them get jobs after they are released, making it less likely for them to return to a life of crime.
3. Studies have shown that inmates who participate in existing prison work programs have a much better record staying *out* of prison once they are back in society, compared to those convicts who don't work.

AND THE REDUCTION OF PRISONERS RETURNING TO THE CORRECTIONAL SYSTEM WOULD BE THE GREATEST SAVINGS. FOR EVERY INMATE NOT RETURNING TO PRISON, TAXPAYERS WOULD SAVE $20,000 A YEAR AND WE WOULD HAVE FEWER VICTIMS OF CRIME.

We are proud that over ONE MILLION Californians signed our petitions.

Yet, some special interest groups oppose this program because they say prison inmate labor will take away jobs from honest California citizens. *THIS IS FALSE.* Inmate employment will support emerging California industries and create, retain or reclaim jobs now being exported overseas. And inmates may not be used as strikebreakers under this proposition.

Today, the law abiding citizens of California are paying double for criminals.

We pay by being the victims of their crimes, then we pay $2 BILLION a year to keep them in prison, just so they can sit around and do nothing to pay for their crime, their upkeep or reform themselves.

Why should law abiding citizens have to work and pay taxes to support a free ride for convicted criminals. *When it comes to the cost of crime, it's the criminal who owes a debt to society, not the taxpayer.*

PUT AN END TO THIS UNFAIRNESS. NO MORE FREE RIDE FOR FELONS!

PUT PRISONERS TO WORK. VOTE YES ON PROPOSITION 139.

GEORGE DEUKMEJIAN
Governor, State of California

DON NOVEY
President, California Correctional Peace Officers Association

DORIS TATE
President, Coalition of Victims Equal Rights

Rebuttal to Argument in Favor of Proposition 139

PROPOSITION 139 WILL COST TAXPAYERS, RATHER THAN SAVE MONEY.

PRIVATE EMPLOYMENT OF PRISONERS WILL COST CALIFORNIANS UP TO $34 MILLION A YEAR!

The portion of prisoners' wages the state collects to cover imprisonment is MORE THAN OFFSET by Proposition 139's EXPENSES AND SUBSIDIES TO PROFITABLE CORPORATIONS.

TAXPAYER COSTS INCLUDE:

Administration—$36 million/year. Corporate tax credits—$6 million/year.

Plus, millions in below-market rate leases to corporations.

Plus, millions in lost income tax revenues and added welfare costs as law-abiding Californians lose their jobs to low-wage prisoners.

Proposition 139 provides massive government giveaways to lure businesses into prisons. WHY SHOULD TAXPAYERS SUBSIDIZE PROFITABLE CORPORATIONS?

THE INITIATIVE HAS ABSOLUTELY NO PROVISION FOR JOB TRAINING.

Prisoners released early under Proposition 139 will be completely unprepared to hold a job.

Unskilled prisoners will be dumped out on our streets early, to join the unemployment lines. This includes both state prison and county jail inmates.

What is desperately needed in California's antiquated prisons is a massive training program to prepare prisoners for the skills required in the job market.

Proposition 139 is a bureaucratic quick fix that won't work—and all at taxpayer expense.

Proposition 139 will bring unemployment to California's workers. It happened in other states with similar programs. In Arizona, 400 WORKERS LOST THEIR JOBS when a major meatpacking company shifted production to a prison factory, and shut its existing plant nearby.

Save the jobs of free workers. Please vote No on Proposition 139.

SHERIFF CHARLES P. GILLINGHAM
Sheriff of Santa Clara County

SHERIFF MICHAEL HENNESSEY
Sheriff of San Francisco

MELVIN H. JONES
President, Association for Los Angeles Deputy Sheriffs

Prison Inmate Labor. Tax Credit. Initiative Constitutional Amendment and Statute 139

Argument Against Proposition 139

Proposition 139 is a destructive bureaucratic dream come true. The comparable inmate work program in the California Youth Authority has cost the taxpayers $3.00 to administer for every dollar returned to the state by inmates.

It is a disorderly scheme that would not only mean government waste but mean public danger and the denial of free employer competition.

In practice it would legalize the hiring of inmates of state prisons by private employers, thus overturning the convict labor prohibition of the state constitution adopted in 1879.

Next, it would provide for the employment of county jail prisoners by private companies beyond the confines of the jails. In the neighborhoods. Anywhere.

In both situations, the employment of inmates would gravely worsen the continuing crisis of high unemployment among minority youth now desperately seeking work.

As to the public danger, the state's legislative analyst this February warned that the employment of lawbreakers in the California Youth Authority program would "compromise the security of thousands of Californians."

The State Legislature's independent fiscal analyst said that the program did not contain enough safeguards to prevent the inmates from having access to a wealth of personal information on members of the public for whom services were being processed.

Proposition 139 could expose home addresses, telephone numbers, social security numbers, departures from residences vacation or business purposes and like matters of personal .idence.

A California Youth Authority program, for example, involves the processing of plane reservations for a major carrier.

In both the state prison and county jail aspects of the Initiative, insurance companies, banks, realtors or any other form of business could qualify for the use of the program.

Again, both programs would discriminate against employers of free labor. The state sponsored employers would not be obliged to pay for workers' compensation insurance, unemployment insurance, vacation periods, social security or health and welfare payments.

In the case of the state prison situation, the program employers would be charged minimal leasing fees for state property use and would receive tax incentives. The program is obviously anti-free enterprise employers.

As to inmate benefits, the work program will provide no lasting skills but will release the inmates upon completion of terms with no assurance that they have been trained for anything useful in the employment market.

Further, in state prisons both the convicts and supervising free workers of the employer will be under armed guard.

In the present gang-ridden environment of too many state prisons, the prospects of competitive violence will shadow the job operations.

Proposition 139 is turning back the clock of history to chain gang memories with controlled labor being exploited to the detriment of free labor and free business.

Lastly, it is a bureaucratic escape from the state government's duty to develop adequate vocational and apprenticeship training programs for the imparting of lasting skills in the important disciplines of the private labor market.

JOHN F. HENNING
Executive Secretary-Treasurer, California Labor Federation

ALBIN J. GRUHN
President, California Labor Federation, AFL-CIO

Rebuttal to Argument Against Proposition 139

DON'T BE FOOLED BY THE LIBERAL SPECIAL INTEREST GROUPS. They come up with all kinds of excuses to cover up a simple fact: they don't think that criminals should have to work and earn their keep, just like the rest of us.

Inmates who work will:

—Provide restitution and compensation to their victims of crime.

—Reimburse the State or counties for a portion of their room and board costs.

—Pay federal, state and local taxes.

—Learn skills which may be used upon their return to free society.

- INMATES WILL PERFORM THEIR JOBS *INSIDE* THE PRISON WALLS, NOT OUTSIDE.
- Inmate labor program is patterned after a California Youth Authority program that has so far resulted in $277,000 paid to victims, $345,000 toward room and board costs, $181,000 for income taxes, and a lower rate of repeat offenders returning to the system. And this four-year old program has had *no security* problems.
- Inmate employment will support emerging California industries and create, retain or reclaim jobs that are now being exported overseas.

We pay by being the victims of prisoners' crimes, then we pay $2 BILLION a year to keep them in prison, while they sit around and do nothing to pay for their crime or reform themselves.

JOIN THE MORE THAN ONE MILLION CALIFORNIANS WHO SIGNED OUR PETITIONS TO PUT THIS INITIATIVE ON THE BALLOT. *END THE FELONS' FREE RIDE.*

PUT PRISONERS TO WORK. VOTE YES ON PROPOSITION 139.

GEORGE DEUKMEJIAN
Governor, State of California

PETE WILSON
U.S. Senator, State of California

DAN LUNGREN
Attorney

140 Limits on Terms of Office, Legislators' Retirement, Legislati... Operating Costs. Initiative Constitutional Amendment

Official Title and Summary:

LIMITS ON TERMS OF OFFICE, LEGISLATORS' RETIREMENT, LEGISLATIVE OPERATING COSTS. INITIATIVE CONSTITUTIONAL AMENDMENT

- Persons elected or appointed after November 5, 1990, holding offices of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Board of Equalization members, and State Senators, limited to two terms; members of the Assembly limited to three terms.
- Requires legislators elected or serving after November 1, 1990, to participate in federal Social Security program; precludes accrual of other pension and retirement benefits resulting from legislative service, except vested rights.
- Limits expenditures of Legislature for compensation and operating costs and equipment, to specified amount.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The limitation on terms will have no fiscal effect.
- The restrictions on the legislative retirement benefits would reduce state costs by approximately $750,000 a year.
- To the extent that future legislators do not participate in the federal Social Security system, there would be unknown future savings to the state.
- Legislative expenditures in 1991–92 would be reduced by about 38 percent, or $70 million.
- In subsequent years, the measure would limit growth in these expenditures to the changes in the state's appropriations limit.

Analysis by the Legislative Analyst

Background

There are 132 elected state officials in California. This includes 120 legislators and 12 other state officials, including the Governor, Lieutenant Governor, and Attorney General. Currently, there is no limit on the number of terms that these officials can serve. Proposition 112, passed by the voters in June 1990, requires the annual salaries and benefits (excluding retirement) of these state officials to be set by a commission. Most of these officials participate in the federal Social Security system, and all have the option of participating in the Legislators' Retirement System. The vast majority of the 132 elected state officials participate in this retirement system. The system is supported by contributions from participating officials and the state.

Funding for the Legislature and its employees is included in the annual state budget. Before it becomes law, the budget must be approved by a two-thirds vote of the membership of both houses of the Legislature and must be signed by the Governor.

Proposal

This initiative makes three major changes to the California Constitution. First, it limits the number of terms that an elected state official can serve in the *same office* (the new office of Insurance Commissioner is not affected by this measure). Second, it prohibits legislators from earning state retirement benefits from their future service in the Legislature. Third, it limits the total amount of expenditures by the Legislature for salaries and operating expenses.

The specific provisions of this measure are:

Limits on the Terms of Elected State Officials

- The following state elected officials would be limited to no more than two four-year terms in the same office: Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Superintendent of Public Instruction, Treasurer, members of the Board of Equalization, and State Senators.
- Members of the State Assembly would be limited to no more than three two-year terms in the same office.
- These limits apply to a state official who is elected on or after November 6, 1990. However, State Senators whose offices are *not* on the November 1990 ballot may serve only one additional term.

Restrictions on Legislative Retirement Benefits

- This measure prohibits current and future legislators from earning state retirement benefits from their service in the Legislature on or after November 7, 1990. This restriction would not eliminate retirement benefits earned prior to that time.
- This measure requires a legislator serving in the Legislature on or after November 7, 1990 to participate in the federal Social Security system. (However, federal law may permit only current legislators who are presently participating in the federal Social Security system to continue to participate in the system. It may also prohibit future legislators from participating in the federal Society Security system.)
- This measure does not change the Social Security coverage or the state retirement benefits of other state elected officials such as the Governor, Lieutenant Governor, and Attorney General.

Limits on Expenditures by the Legislature

- This measure limits the total amount of expenditures by the Legislature for salaries and operating expenses, beginning in the 1991–92 fiscal year.
- In 1991–92, these expenditures are limited to the *lower* of two amounts: (1) a total of $950,000 per Member or (2) 80 percent of the total amount of money expended in the previous year for these purposes. In future years, the measure limits expenditure growth to an amount equal to the percentage change in the state's appropriations limit.

Fiscal Effect

Limits on the Terms of Elected State Officials. This provision would not have any fiscal effect.

Restrictions on Legislative Retirement Benefits. The provision which prohibits current and future Members of the Legislature from earning state retirement benefits from legislative service on and after November 7, 1990 would reduce state costs by about $750,000 a year.

To the extent that future legislators do not participate in the federal Social Security system, the measure would result in unknown future savings to the state.

Limits on Expenditures by the Legislature. In 1991–92, expenditures by the Legislature would be reduced by about 38 percent, or $70 million. In subsequent years, this measure would limit growth in these expenditures to the change in the state's appropriations limit.

For text of Proposition 140 see page 137

140 Limits on Terms of Office, Legislators' Retirement, Legislative Operating Costs. Initiative Constitutional Amendment

Argument in Favor of Proposition 140

Proposition 140 will for the first time ever place a limit on the number of terms a State official may serve in office.

A Yes Vote on Proposition 140 will reform a political system that has created a legislature of career politicians in California. It is a system that has given a tiny elite (only 120 people out of 30 million) almost limitless power over the lives of California's taxpayers and consumers.

Proposition 140, will limit State Senators to two terms (8 years): will limit Assembly members to three terms (6 years): and limit the Governor and other elected constitutional officers to two terms (8 years).

By reducing the amount they can spend on their personal office expenses, Proposition 140, will cut back on the 3,000 political staffers who serve the legislature in Sacramento. In the first year alone, according to the legislative analyst, it will save taxpayers $60 million.

Proposition 140, will end extravagant pensions for legislators. While most Californians have to depend on Social Security and their own savings, the legislative pension system often pays more than the legislator received while in office. In fact 50 former officials receive $2,000.00 per month or more from the Legislative retirement fund.

Limiting Terms, will create more competitive elections, so good legislators will always have the opportunity to move up the ladder. Term limitation will end the ingrown, political nature of both houses—to the benefit of every man, woman and child in California.

Proposition 140, will remove the grip that vested interests have over the legislature and remove the huge political slush funds at the disposal of Senate and Assembly leaders.

Proposition 140 will put an end to the life-time legislators, who have developed cozy relationships with special interests. We all remember the saying, "Power corrupts and absolute power corrupts absolutely." But limit the terms of Legislative members, remove the Speaker's cronies, and we will also put an end to the Sacramento web of special favors and patronage.

Proposition 140 will end the reign of the Legislature's powerful officers—the Assembly Speaker (first elected a quarter of a century ago) and the Senate Leader (now into his third decade in the Legislature). Lobbyists and power brokers pay homage to these legislative dictators, for they control the fate of bills, parcel out money to the camp followers and hangers-on, and pull strings behind the scenes to decide election outcomes.

Incumbent legislators seldom lose. In the 1988 election, 100% of incumbent state senators and 96% of incumbent members of the assembly were re-elected. The British House of Lords—even the Soviet Legislature—has a higher turnover rate. Enough is Enough! It's time to put an end to a system that makes incumbents a special class of citizen and pays them a guaranteed annual wage from first election to the grave. Let's restore that form of government envisioned by our Founding Fathers—a government of citizens representing their fellow citizens.

VOTE YES ON PROPOSITION 140 TO *LIMIT STATE OFFICIALS TERM OF OFFICE!*

PETER F. SCHABARUM
Chairman, Los Angeles County Board of Supervisors

LEWIS K. UHLER
President, National Tax-Limitation Committee

J. G. FORD, JR.
President, Marin United Taxpayers Association

Rebuttal to Argument in Favor of Proposition 140

Proposition 140 is a proposal by a downtown Los Angeles politician to take away your right to choose your legislators. He has a history of taking away voting rights. He and two political cronies voted to spend $500,000.00 in tax dollars to hire a personal lawyer to defend him against Voting Rights Act violations in Federal Court. Newspapers call it an "outrageous back room deal."

His "Big Bucks" friends, including high-priced lobbyists, have lined his pockets with campaign contributions to help control who *you* can vote for.

- IF 140 PASSES, LOBBYISTS COULD SUBSTITUTE THEIR OWN PAID EMPLOYEES FOR THE INDEPENDENT STAFF RESEARCHERS OF THE LEGISLATURE ELIMINATED BY THIS MEASURE.
- 140 MISLEADS YOU ABOUT THE SO-CALLED "HIGH" COST OF THE LEGISLATURE—THE COST IS LESS THAN ½ PENNY PER TAX DOLLAR.
- THE BIGGEST LIE IS THE FACT THEY DON'T TELL YOU THAT 140 IS A *LIFETIME BAN.*

This is a blatant power grab by Los Angeles contributors and lobbyists who have been wining and dining "Mr. Downtown Los Angeles" in government for SEVEN TERMS—OVER TWENTY YEARS.

Practice what you preach, "Mr. Downtown Los Angeles," Peter Schabarum. Cut ***your own*** budget and limit ***your own*** terms. Don't be piggy and take away people's rights after you have fully eaten at the table.

There is no need for 140. The vast majority of the Legislature *already* serves less than 10 years.

That's *your* choice.

Keep it.

Stop Downtown Los Angeles' power grab.

Vote no on 140!

ED FOGLIA
President, California Teachers Association

DAN TERRY
President, California Professional Firefighters

LINDA M. TANGREN
State Chair, California National Women's Political Caucus

 Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Limits on Terms of Office, Legislators' Retirement, Legislative Operating Costs. Initiative Constitutional Amendment 140

Argument Against Proposition 140

Proposition 140 claims to mandate term limits. But in fact, it limits our voting rights.

This measure takes away the cherished constitutional right to freely cast a ballot for candidates of our choice.

We are asked to forfeit *our* right to decide who *our* individual representatives will be.

PROPOSITION 140'S LIFETIME BAN

140 does *not* limit *consecutive* terms of office. Instead 140 says:

- After serving six years in the Assembly, individuals will be constitutionally *banned for life* from ever serving in the Assembly.
- After serving eight years in the Senate, individuals will be constitutionally *banned for life* from ever serving in the Senate.
- Similar lifetime bans will be imposed on the Superintendent of Public Instruction and other statewide offices.

There are no exceptions—not for merit, not for statewide emergencies, not for the overwhelming will of the people.

Once banned, always banned.

PROPOSITION 140 IS UNFAIR

It treats everyone—good and bad, competent and incompetent—the same.

No matter how good a job someone does in office, they will be *banned for life.*

No matter what cause they may be fighting for or how badly we, the people, want to reelect them, they will be *banned for life.*

You won't even be able to write-in their names on your ballot. If you do, your vote won't count.

That's just not fair.

LIMITS OUR RIGHT TO CHOOSE

The backers of 140 don't trust us, the people, to choose our elected officials. So instead of promoting thoughtful reforms that help us weed out bad legislators, they impose a lifetime ban that eliminates good legislators and bad ones alike at the expense of our constitutional rights.

No eligible citizen should be *permanently banned* for life from seeking any office in a free society. And we should not be *permanently banned* from voting freely for the candidate of our choice.

Resist the rhetoric. Proposition 140 is not about restricting the powers of incumbency. It's about taking away our powers to choose.

PHONY PENSION REFORM

Proposition 140's retirement provisions also are misdirected and counterproductive.

140 does not eliminate the real abuses: double and triple dipping—the practice of taking multiple pensions.

Instead it raises new barriers to public office by banning our future representatives from earning *any* retirement except their current social security.

140's retirement ban won't hurt rich candidates. It will hurt qualified, ordinary citizens who are not rich and have to work hard to provide economic security for themselves and their families.

PROPOSITION 140 GOES TOO FAR

It upsets our system of constitutional checks and balances, forcing our representatives to become even more dependent on entrenched bureaucrats and shrewd lobbyists.

If its proponents were sincere about political reform, they wouldn't have cluttered it with so many unworkable provisions.

VOTE NO ON PROPOSITION 140

STOP THIS RADICAL AND DANGEROUS SCHEME! PROTECT OUR CONSTITUTIONAL RIGHTS. VOTE NO ON PROPOSITION 140'S LIFETIME BAN.

DR. REGENE L. MITCHELL
President, Consumer Federation of California

LUCY BLAKE
Executive Director, California League of Conservation Voters

DAN TERRY
President, California Professional Firefighters

Rebuttal to Argument Against Proposition 140

Proposition 140 restores *true* democracy, gives you *real* choices of candidates, protects *your* rights to be represented by someone who knows and cares about *your* wishes. It opens up the political system so *everyone*—not just the entrenched career politicians—can participate.

Proposition 140 will bring new ideas, workable policies and fresh cleansing air to Sacramento. All are needed badly. A stench of greed, and vote-selling hangs over Sacramento because lifetime-in-office incumbents think it's *their* government, not yours.

Californians polled by the state's largest newspaper say "most politicians are for sale," and "taking bribes is a relatively common practice" among lawmakers. Proposition 140 cuts the ties between corrupting special interest money and long-term legislators.

Why don't more people vote? Because incumbents have rigged the system in their favor so much, elections are meaningless. Even the worst of legislators get reelected 98% of the time. Honest, ethical, *truly* representative people who want to run for office don't stand a chance.

Do career legislators *really* earn their guaranteed salaries, extravagant pensions, limousines, air travel and other luxury benefits? No. They use *your* money and *your* government to buy themselves power and guaranteed reelections.

Who really opposes Proposition 140? It isn't ordinary people who have to work for a living. It's incumbent legislators and their camp followers. Beware of movie stars and celebrities in million-dollar TV ads, attacking proposition 140. They're doing the dirty work for career politicians.

VOTE "YES!" ON PROPOSITION 140. ENOUGH, IS ENOUGH!

W. BRUCE LEE, II
Executive Director, California Business League

LEE A. PHELPS
Chairman, Alliance of California Taxpayers

ART PAGDAN, M.D.
National 1st V.P., Filipino–American Political Association

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An Overview of State Bond Debt prepared by the Legislative Analyst will appear in a supplemental ballot pamphlet before the texts of proposed laws.

Proposition 124: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 29 (Statutes of 1990, Resolution Chapter 6) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XVI

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and *provided, further, that the Legislature by statute may authorize local hospital districts to acquire and own stock of corporations which engage in any health care related business as that term may be defined from time to time by the Legislature, and provided that the district shall be subject to the same obligations and liabilities as are imposed by law upon all other stockholders in those corporations; and*

Provided, further, that nothing in this section shall be construed to repeal or otherwise affect Section 2400 of the Business and Professions Code; and

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such ~~publicly/owned~~ *publicly owned* nonprofit corporation or other public agency as may be authorized by the Legislature; and

Provided, further, that nothing contained in this Constitution shall prohibit the use of State money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.

Proposition 125: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 32 (Statutes of 1990, Resolution Chapter 55) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XIX

SECTION 1. Revenues from taxes imposed by the state on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for ~~such~~ *those* purposes, and the administrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for those purposes, the administrative costs necessarily incurred in the foregoing purposes, *the acquisition of rail transit vehicles and rail transit equipment which operate only on exclusive public mass transit guideways,* and the maintenance of the structures and the immediate right-of-way for ~~the~~ public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.

Proposition 126: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 38 (Statutes of 1990, Resolution Chapter 56) expressly amends the Constitution by adding a section and an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XIII B AND ADDITION OF ARTICLE XXII

First—That the Legislature hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 13 to Article XIII B thereof, to read:

SEC. 13. (a) For the 1990–91 fiscal year, "proceeds of taxes" do not include any taxes collected in accordance with Section 5 of Article XXII during that fiscal year.

(b) For fiscal years beginning on or after July 1, 1991, the appropriations limit of the state shall be the appropriations limit for the 1990–91 fiscal year as otherwise determined pursuant to this article, as increased by an amount equal to the amount of revenue received for the 1991–92 fiscal year from the taxes imposed pursuant to Section 5 of Article XXII, and as further adjusted pursuant to this article.

Second—That the Legislature hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Article XXII, to read:

Article XXII. Alcoholic Beverage Excise Taxes and Surtaxes

SECTION 1. Taxes or fees specifically imposed on the manufacture, importation, storage, distribution, sale, consumption, or use of alcoholic beverages may be levied only as provided in Sections 3, 4, and 5 of this article, or by the Legislature pursuant to Section 22 of Article XX and Section 3 of Article XIII A. Taxes or fees, which are imposed or authorized by the Legislature, and which are broadly applicable to the manufacture, importation, storage, distribution, sale, consumption, or use of tangible personal property, may be applied in the case of alcoholic beverages.

SEC. 2. Except as provided by the Legislature, the taxes imposed under Sections 3, 4, and 5 are in lieu of all county, city (including a charter city), or district taxes on the sale of alcoholic beverages.

SEC. 3. An excise tax is imposed upon all beer and wine sold in this State by a manufacturer, winegrower, importer, or seller of beer or wine selling beer or wine 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, one dollar and twenty-four cents ($1.24) for every barrel containing 31 gallons 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, one cent ($0.01) 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, two cents ($0.02) per wine gallon and at a proportionate rate for any other quantity.

(d) On champagne, sparkling wine, excepting sparkling hard cider, whether naturally or artificially carbonated, thirty cents ($0.30) per wine gallon and at a proportionate rate for any other quantity.

(e) On sparkling hard cider, two cents ($0.02) per wine gallon and at a proportionate rate for any other quantity.

SEC. 4. An excise tax is imposed upon all distilled spirits sold in this state by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, wholesaler, common carrier with respect to sales made upon boats, trains, and airplanes, person licensed to sell distilled spirits upon boats, trains, and airplanes, or seller of distilled spirits selling 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 distilled spirits of proof strength or less, two dollars ($2) per wine

gallon and at a proportionate rate for any other quantity, and on all nonliquid distilled spirits containing 50 percent or less alcohol by weight, two cents ($0.02) per ounce avoirdupois and at a proportionate rate for any other quantity.

(b) On all distilled spirits in excess of proof strength and all nonliquid distilled spirits containing more than 50 percent alcohol by weight, two times the rate specified in subdivision (a).

SEC. 5. On and after March 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.

(g) Except with respect to beer and wine in the possession of an alcoholic beverage manufacturer, and except with respect to distilled spirits in the possession of a distilled spirits manufacturer, wholesaler, or importer, the Legislature shall impose, by appropriate legislation, floor stock taxes in amounts equal to the surtaxes imposed by this section upon all alcoholic beverages upon which the surtaxes have not been paid, which are in the possession at 2:01 a.m. on March 1, 1991, of any person licensed pursuant to the second paragraph of Section 22 of Article XX. Any floor stock taxes with respect to alcoholic beverages shall become due and payable by remittance to the State Board of Equalization 120 days after the date upon which the floor tax is determined.

SEC. 6. The excise taxes and surtaxes imposed under Sections 3, 4, and 5 are intended to replace and therefore shall supercede the excise taxes previously imposed pursuant to statutes. The excise taxes and surtaxes imposed under Sections 3, 4, and 5 shall be subject to credits, refunds, and exemptions as described in statutes imposing those excise taxes immediately prior to the effective date of this article. The Legislature shall have the power to modify, add to, or repeal credits, refunds, and exemptions. All taxes, interest, and penalties imposed and all amounts of tax required to be paid to the State under this article shall be paid in the form of remittances payable to the State of California and deposited into the General Fund at the times and in the manner that the Legislature may prescribe. This article shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with its provisions.

SEC. 7. The measure adding this section is inconsistent with and intended as an alternative to any initiative measure that appears on the same ballot that imposes taxes or surtaxes upon alcoholic beverages. In the event that the measure adding this section and another measure that imposes taxes or surtaxes upon alcoholic beverages are adopted at the same election, a conflict shall be deemed to exist between the measures and the measure which receives the greater number of votes shall prevail in its entirety and the other measure shall be null and void in its entirety. The taxes and surtaxes imposed by the measure adding this section shall not be imposed in addition to another tax or surtax upon alcoholic beverages that is adopted at the same election.

SEC. 8. The provisions of the initiative measure, entitled the Taxpayers Right to Vote Act of 1990, if adopted by the voters at the November 6, 1990, general election, shall not apply to this measure.

Proposition 127: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 33 (Statutes of 1990, Resolution Chapter 57) expressly amends the Constitution by adding provisions thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION TO SUBDIVISION (c) OF SECTION 2 OF ARTICLE XIII A

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, which are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements which qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

Proposition 128: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends, repeals, and adds sections to various codes; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

TITLE ONE

SECTION 1. Short Title

This Act shall be known as the Environmental Protection Act of 1990.

TITLE TWO

SECTION 2. Findings and Declarations

We, the People of the State of California, do find and declare:

A. Our health, natural environment and quality of life are threatened by chemical pollution of the food which nourishes us, the air we breathe and our ocean waters.

B. These environmental problems arise from a common cause, our production of and dependence on toxic chemicals in all aspects of the economy.

C. These problems are urgent issues requiring solutions, now. Our State and federal governments have failed to resolve them, and have not adequately protected our health and environment. The public's trust has been compromised by special interests, and public confidence has been weakened by government's failure to act. It is therefore necessary to act by way of initiative to make the necessary changes in law.

We hereby further find and declare:

1) Each year, millions of pounds of pesticides are used in California, and eventually contaminate the food chain, drinking water supply, ocean, air, soil and ecosystem. Many of these pesticides pose clear hazards to human life and health.

2) Our children are more vulnerable than adults to the toxic effects of pesticides because of their immature physiological systems and special susceptibility to cancer-causing substances.

3) Neither the state nor federal government has adequately protected the People of the State of California from hazardous pesticides, in the food chain, in the fields, and elsewhere in the environment, placing adults and especially children in serious jeopardy. As a result of this governmental failure, consumers and agricultural workers are exposed daily through work and food to hazardous pesticides.

4) The public health and environment will be best protected by the regulatory measures set forth in this Act, by conferring responsibility on the California Department of Health Services to control the use of pesticides, and by providing State funds for the development of safe alternatives while phasing out cancer causing and other hazardous pesticides.

We also further find and declare:

1) As a result of California's rapid economic and population growth, the People of the State consume vast amounts of fossil fuels and other chemical substances through transportation, heating and cooling, manufacturing, and in the production of electricity. That consumption creates tens of millions of tons of waste gases and pollutants every year, including carbon dioxide from combustion of fossil fuels, chlorofluorocarbons and halons from industry, and nitrous oxides from motor vehicles.

2) There is increasing and substantial scientific evidence that global temperatures are gradually being raised by the cumulative effect of the emissions of these gases released into the atmosphere by human and industrial activity.

3) In addition to the emissions of these gases, global warming is increased by the depletion of our forests and urban trees. Between 1977 and 1986 alone, California lost over 700,000 acres of its forests to agricultural use and urban expansion.

4) California's old growth redwoods are an irreplaceable national and international resource, but exist only as a fragment of an ancient temperate rain forest ecosystem which once comprised approximately 2 million acres. Their continued destruction contributes to the loss of our forests and to global warming, and their cutting and harvesting, especially through clear cutting, contributes to erosion, pollution of water courses, and destruction of fishery and animal resources. Because of their extremely high biomass per acre, preservation of ancient redwood stands is significant in counteracting global warming, and provides an example of the actions that should be taken on a global scale.

5) There is also increasing and substantial scientific evidence that chemical substances are contributing to the destruction of the stratospheric ozone layer which shields the earth's surface from dangerous solar radiation. The continued destruction of the ozone layer could result in enormous increases in skin cancer cases, decreased yields of food crops, and adversely affect the health and welfare of the People of the State of California.

6) If these emissions continue unabated, and if the loss of trees in the State continues, global warming could have substantial adverse impacts on the State, including a reduction in water deliveries from the State Water Project to agricultural and urban areas, an expansion of San Francisco Bay caused by rising ocean levels, decreased crop yields due to higher temperatures and lower precipitation, increased temperatures, and increased energy usage to cool residences and workplaces.

7) As a result, the People of the State of California declare that the State must take the steps described in this Act to reduce toxic contamination of our air, to reduce its emission of waste gases which warm the atmosphere, to reduce and eliminate its use of chemicals which destroy the stratospheric ozone layer, and to protect and restore trees in the state.

Finally, We find and declare:

1) Over one million barrels of oil are imported into California each day by oil

tankers and from offshore oil platforms. In addition, current law permits oil development in state waters within three miles of the State's beaches and shores.

2) The transportation and unloading of this oil from oil tankers to shore facilities, and from offshore oil production platforms in both state and federal waters, seriously threatens the State's fishery resources, the marine food chain, coastline and beaches with oil pollution in the event of an oil spill.

3) The recent oil spill in Alaska demonstrates that current oil spill prevention practices and cleanup techniques are completely incapable of protecting the State's fishery resources, marine food chain, coastline and beaches in the event of a major oil spill. With current practices, the transportation of, and exploration and development for, oil cannot be conducted in a manner which adequately protects marine and coastal resources.

4) In addition, past municipal, industrial and agricultural discharges into the State's bay, estuarine and ocean waters, discharges into waters that flow into those waters, urban storm runoff, dredging activities, and past legal and illegal dumping of toxic wastes, have all had a serious adverse effect on the marine environment, ocean resources and water quality and therefore on public health and safety.

5) Toxic substances continue to pollute the ocean environment, fishery resources, and the marine food chain.

6) Therefore, the People of the State of California declare that the State must take the actions included in this Act, in order to protect the quality of our marine bay, estuarine and ocean waters.

Accordingly, We, the People of the State of California, do hereby enact the Environmental Protection Act of 1990, to safeguard the People from toxic contamination by chemical poisons in the food supply, to reduce chemical pollution which contributes to global warming and depletion of the ozone layer, to protect and increase the number of trees in the State thereby decreasing the production of chemicals and waste gases which contribute to global warming and depletion of the ozone layer, and to protect California's marine resources and coastline from oil spills and pollution by toxic chemicals.

TITLE THREE

SECTION 3. Chapter 9 is added to Division 21 of the Health and Safety Code, to read:

CHAPTER 9. FOOD SAFETY AND PESTICIDES

Article 1

26901. (a) The registration of any pesticide containing an active ingredient known to cause cancer or reproductive harm, which is registered for use on food or for which a tolerance exists as of the effective date of this Chapter, shall be cancelled and applicable tolerances revoked by January 1, 1996.

(b) The registration of any pesticide containing an active ingredient, registered for use on food, or for which a tolerance exists, which is determined after the effective date of this Chapter to cause cancer or reproductive harm, shall be cancelled and applicable tolerances revoked on or before five years from the date of the determination.

(c) No pesticide containing an active ingredient known to cause cancer or reproductive harm may be registered, or any tolerance adopted, for any new use on food after the effective date of this Chapter.

(d) No pesticide for which the health effects studies required by Section 13123(c) of the Food and Agricultural Code are missing or inadequate shall be registered for any new use on food.

26902. (a) Notwithstanding Section 26901(a) and (b), the Director of Health Services may, by regulation, extend the registration and tolerance of a pesticide subject thereto for a period not to exceed three years, if the registrant demonstrates for each use of the pesticide for which an extension is sought:

(1) Cancellation of the pesticide will cause severe economic hardship to the state's agricultural industry; and

(2) No known alternative pest control or management practice can be used effectively; and

(3) The tolerance adopted meets the requirements of this Chapter, including Sections 26905 and 26906; and

(4) The quantity of the pesticide used in this state has been reduced by at least an average of 10% per year over the five year period from base period use in this State.

(b) A statement as to the basis upon which the proposed regulation is then predicated, and the record then available to the Director shall be made available when notice is issued pursuant to Government Code Section 11346.5.

(c) During any extension authorized pursuant to subdivision (a):

(1) The pesticide shall be a restricted material, subject to Section 14006.5 of the Food and Agricultural Code; and

(2) The Director shall restrict uses and revoke tolerances of the pesticide as necessary in order to reduce the quantity of the pesticide used each year by an average of an additional 10% per year over the extension period from the base period use in this state.

Article 2

26903. (a) The registrant of any high hazard pesticide registered for use on food, or any person on whose behalf a tolerance has been established, may, before November 7, 1994, petition the Director pursuant to Government Code Section 11347 for a determination that the pesticide does not cause cancer. The registrant of any pesticide registered for use on food which is identified after the effective date of this Chapter as a high hazard pesticide, or any person on whose behalf a tolerance for such pesticide has been established, may petition the Director within four years after the identification for a determination that the pesticide does not cause cancer.

(b) Upon the filing of any such petition, the Director shall determine, in accordance with the standards of this Chapter and based on complete and adequate scientific data, whether it has been demonstrated that the pesticide is not known to cause cancer. The criteria for this determination shall be those utilized for classification of a pesticide known to cause cancer as specified in Section 26914(l)(1).

(c) If the Director does not adopt a regulation granting a petition filed pursuant to subdivision (a) within one year after filing, or a petition has not been filed regarding a high hazard pesticide pursuant to subdivision (a), the pesticide shall be known to cause cancer within the meaning of this Chapter, and shall be subject to Section 26901(b) if the pesticide is highly hazardous due to its active ingredient, or shall be subject to Section 26904(a) if the pesticide is highly hazardous because of its inert ingredient.

(d) The Council on Environmental Quality, established by Government Code Section 12260, shall give priority to developing alternatives to the pesticides subject to Sections 26901 and this Section.

26904. (a) No pesticide containing an inert ingredient known to cause cancer or reproductive harm may be registered, nor may a tolerance be established, for a new use on food. Existing registrations for use on food of a pesticide containing an inert ingredient known to cause cancer or reproductive harm shall be cancelled and applicable tolerances revoked within two years of the effective date of this Chapter, or for those subsequently determined to cause cancer or reproductive harm, within two years of such subsequent determination.

(b) The Director shall not permit the use of any inert ingredient in the formulation of a pesticide registered for use on food unless the inert ingredient presents no significant risk.

Article 3

26905. (a) For any pesticide registered for use on food, the Director shall evaluate the tolerance prescribed or exemption from tolerance, or any other standard permitting pesticide residues of the active ingredient in food, to determine whether the tolerance, exemption or standard complies with the standards specified by this Chapter, including the standard specified by Section 26906. Such evaluations shall be completed: (1) for pesticides subject to Section 26901, by January 1, 1993; (2) for high hazard pesticides, by January 1, 1995; and (3) for all other pesticides, by January 1, 1997. If the data are insufficient for this determination, the Director shall require the registrant to submit additional data as deemed necessary by the Director, but in no case shall the dates herein be extended.

(b) If, pursuant to the evaluation, the Director determines that the pesticide residue fails to meet the requirements of Section 26906, the Director shall, within one year thereafter, revoke or revise the applicable tolerance, exemption, or standard, by regulation, to meet such requirements. If the requirements of Section 26906 cannot be met within the time allowed in this Section, the Director shall establish a zero tolerance.

(c) No pesticide shall be registered for a new use on food without the establishment of a tolerance in accordance with this Section or Section 26906.

(d) Tolerances shall be established based on the total risk of the active ingredient contained in the pesticide, including its metabolites, contaminants and degradation products, but excluding inert ingredients.

26906. (a) A pesticide residue may be permitted in food only if it is demonstrated that the pesticide residue presents no significant risk to human health, including the health of identifiable population groups (particularly infants and children) with special food consumption patterns. The Director shall adopt appropriate tolerances for all pesticides used on food that meet this requirement. In setting tolerances, the Director shall give appropriate consideration to the other ways in which the consumer may be affected by the same pesticide or by related substances that are poisonous or deleterious.

(b) For purposes of this Chapter, the term "no significant risk" means: (1) for pesticides that are known carcinogens or highly hazardous, the level at which the residue will not cause or contribute to a risk of human cancer in the exposed population which exceeds a rate of one in a million, utilizing the most conservative risk assessment model that is generally accepted to be scientifically valid, and which complies with the criteria of Section 12703(a) of Title 22 of the California Code of Regulations. The standard specified in this subparagraph shall also apply to other adverse human health effects of any pesticide as to which there is no generally accepted scientifically valid threshold below which exposure is safe; and (2) for all pesticides not subject to subparagraph (1), the level at which the pesticide residue will not cause or contribute to any known or potential adverse human health effects, including an ample margin of safety. A margin of safety is not ample unless human exposure per unit of body measurement is at least 1000 times less than the no observable effect level in animals or humans on which the pesticide residue was tested, except that the Director may determine that a lower margin of safety is ample, but in no event lower than 100 times the no observable effect level, and only if there is complete and reliable exposure and toxicity data.

26907. No later than 30 days after the Director issues a proposed regulation revising a tolerance for a food use pesticide, the registrant or any person on whose behalf a tolerance has been established shall submit data to the Director and the Director of Food and Agriculture demonstrating the appropriate maximum application rates and preharvest intervals necessary to assure that no tolerance is exceeded, and that no worker will suffer impairment of health or functional capacity within the meaning of Section 26950.

26908. The Director shall not grant any new tolerance, and shall not continue, revise or renew an existing tolerance beyond January 1, 1997, unless the registrant, or a person on whose behalf a tolerance has been established, demonstrates that there are practical analytical methods available to monitor the residues of pesticide in food, which methods can reliably, routinely, and efficiently quantify the level of the residue with sensitivity sufficient to enforce all applicable tolerances.

26909. The burden of proof shall, at all times, be on the registrant or the person on whose behalf a tolerance has been established to demonstrate that use of a pesticide conforms to the requirements of Title Three of the Environmental Protection Act of 1990.

26910. In order to protect the health of the People of the State of California, food produced outside of this state, foreign or domestic, which contains a residue of a pesticide which has been cancelled or cannot be registered in this state

because of Sections 26901 or 26903, or which is in excess of the amount permitted by Sections 26905 and 26906, is adulterated and unsafe

Article 4

26911. (a) Notwithstanding any other provision of law, effective July 1, 1991, all of the following functions, authority, and responsibilities are transferred from the Department of Food and Agriculture to the Department of Health Services:

(1) Evaluation of the health risks of pesticide exposure in food, air, water, the workplace and the environment;

(2) Establishment and implementation of specific criteria to evaluate the health risks of pesticides and environmental contaminants and of programs to require that tests be conducted by registrants of pesticides to determine health risks;

(3) Review and evaluation of the validity, adequacy, and completeness of pesticide test data;

(4) Development and setting of pesticide residue tolerances and permissible amounts of environmental contaminants;

(5) Development and setting of workplace health standards; and

(6) Any other authority necessary to protect public health and the environment from the hazards of pesticides.

(b) The Governor shall take all steps necessary to effectuate the transfer of authority required by subdivision (a), including the transfer of all records, equipment, supplies, personnel positions and funding related to such functions, and if necessary, the submission of a reorganization plan pursuant to Government Code Section 12080.2.

26912. (a) If the Director determines that a pesticide poses a threat of adverse human health effects, the Director may, by regulation, prohibit or restrict the distribution, sale, or use of the pesticide as necessary.

(b) Notwithstanding any other provision of law, the Director of Food and Agriculture may not register, reregister, or otherwise permit the use of any pesticide inconsistent with a regulation adopted by the Director of Health Services pursuant to this Chapter, and no person may distribute, sell or use a pesticide in this state in violation of a regulation adopted by the Director of Health Services pursuant to this Chapter.

26913. (a) Notwithstanding Sections 26901 and 26903, a pesticide may be used in an eradication effort undertaken during a state of emergency declared pursuant to Section 8558 of the Government Code and subject to Chapter 1.5 of Division 4 of the Food and Agricultural Code, if there is no other alternative means of eradication, if the Director concurs in the necessity and safety of the use of the pesticide, and if the use complies with any restrictions deemed necessary by the Director.

(b) Notwithstanding Sections 26901 and 26903, a pesticide may be used to control Africanized bees, mosquitoes, or other human or animal disease vectors pursuant to Chapter 5 of Division 3 or Section 402.

Article 5

26914. The definitions in this section govern the construction of Title 3 of the Environmental Protection Act of 1990, and Chapter 1 of Division 7 of the Food and Agricultural Code:

(a) "Active ingredient" means a pesticide, excluding its inert ingredients, but including its metabolites, contaminants, and degradation product.

(b) "Adverse human health effect" means illness resulting in premature death or severe debilitation.

(c) "Base period use" means the lesser amount reported sold in 1989 or used in 1990.

(d) "Cause or contribute" means the extent to which the pesticide adversely affects human health.

(e) "Classification" by the United States Environmental Protection Agency means inclusion on a list, report, or memorandum, or identified in a final document, which is used as a basis for regulatory action, and including, but not limited to, publication in the Federal Register or otherwise made known to the public by any means.

(f) "Contaminant" means a constituent of a registered pesticide which is unavoidably produced during the manufacture of the active ingredient.

(g) "Degradation product" means the result of the biotransformation or breakdown of the parent compound by food processing or environmental factors including but not limited to air, sunlight or water.

(h) "Demonstrate" means to meet the burden of proof or establish by clear and convincing evidence.

(i) "Food" is defined by Section 26012.

(j) "High hazard pesticide" means any pesticide containing an active or inert ingredient which is (1) classified by the United States Environmental Protection Agency as a Group C carcinogen pursuant to the guidelines for carcinogen risk assessment published in 51 Federal Register 33992, or a comparable classification based on equivalent criteria under any successor guidelines, including, at a minimum, each pesticide identified as a Group C carcinogen listed in 53 Federal Register 41118; or (2) determined by the Director to create such risk, utilizing the same or similar criteria.

(k) "Inert ingredient" means an ingredient that is not active, as defined in Section 2(m) of the Federal Insecticide, Fungicide and Rodenticide Act and including any contaminant therein or any substance which is the result of metabolism or other degradation of the inert ingredient.

(l) "Known to cause cancer" means (1) classification by the United States Environmental Protection Agency as a Group A or Group B carcinogen pursuant to the guidelines for carcinogen risk assessment published in 51 Federal Register 33992, or a comparable classification based on equivalent criteria under any successor guidelines, and including at a minimum each pesticide identified as a Group A or Group B carcinogen and listed in 53 Federal Register 41118; or (2) listing of a chemical by the Governor as known to the state to cause cancer pursuant to Section 25249.8; or (3) a determination by the Director utilizing the same or similar criteria as used in subparagraphs (1) and (2).

(m) "Known to cause reproductive harm" means a listing of a chemical by the Governor as known to cause reproductive toxicity pursuant to Section 25249.8.

(n) "Metabolite" means the result of biotransformation or breakdown of the parent compound by a living organism.

(o) "No observable effect level" is the level of exposure which reliable experimental data derived from exposing humans or animals shows that a pesticide induces no adverse effect.

(p) "Pesticide" or "pesticide chemical" means any substance which alone, chemical combination, or in formulation with one or more substances, is an "economic poison" as defined by Section 12753 of the Food and Agricultural Code or a pesticide as defined in Section 2(u) of the Federal Insecticide, Fungicide and Rodenticide Act, but including the active ingredient, metabolites, contaminants, degradation product, or inert ingredient, and which is used in the production, storage, or transportation of any food.

(q) "Processed food" means any food other than a raw agricultural commodity, and includes any raw agricultural commodity which has been subject to processing, including canning, cooking, freezing, dehydration, or milling.

(r) "Produce" means any food in its raw or natural state which is in such form as to indicate that it is intended for consumer use with or without any or further processing.

(s) "Raw agricultural commodity" is defined by Section 26029.

(t) "Residue" means a residue of any pesticide in any food or any other substance that is present in, or results from, metabolism or other degradation process of the pesticide.

(u) "Toxicity category" means a category established pursuant to Part 162.10(h)(1) of Title 40 of the Code of Federal Regulations.

26915. Nothing in Title Three of the Environmental Protection Act of 1990 shall be construed to remove or diminish the obligations of any person under Chapter 6.6 of Division 20 with regard to any substance to which Title Three applies.

Article 6

26916. (a) No person shall advertise, make any representation or sell any raw agricultural commodity with a representation that the commodity is certified as having "no detected pesticide residue" or any other similar claim, unless all of the following requirements are met:

(1) Documentation providing full disclosure of all pesticides used during any phase of production is submitted to the Department of Health Services and provided with the product to retail sellers;

(2) Laboratory tests for all pesticides used, and commonly used, on the commodity have been conducted for each field lot by a laboratory accredited for such tests by the Department of Health Services, with results of such tests submitted to the Department prior to retail sale;

(3) No pesticide known to cause cancer or reproductive harm, no high hazard pesticide, and no pesticide for which there is no practical analytical method of detection, has been used during any phase of production of the commodity; and

(4) Any residue does not exceed practical detection limits as determined by the Department or exceed 50 parts per billion, whichever is lower.

(b) The requirements of this Section apply only to raw agricultural commodities advertised, represented, or sold with a representation that the commodity is certified as having "no detected pesticide residue" or other similar claim, and shall not apply to organic and other agricultural commodities defined by Section 26569.11.

(c) This Section shall be effective only until November 7, 1998.

SECTION 4. Sections 13127.1 and 13150.1 are added to the Food and Agricultural Code, to read:

13127.1. "As soon as possible," as used in Section 13127(d)(1) means no later than February 15, 1991.

13150.1. The director may allow the continued registration, sale, and use of an economic poison which meets any one of the conditions specified in Section 13149, only if the Director of Health Services concurs with the findings of the subcommittee and the director pursuant to Section 13150 (c) and (d).

SECTION 5. Section 21080.6 of the Public Resources Code is added, to read:

21080.6. Except as to pesticide use permits, the certification of the pesticide regulatory program pursuant to Section 21080.5 shall expire on July 1, 1992. The Secretary shall not recertify the program unless, in determining whether the program meets the criteria for certification under Section 21080.5, the Secretary determines that the public reports issued by the Departments of Food and Agriculture and Health Services to implement the program satisfy the criteria of Section 21080.5. Public reports issued in making pesticide registration, renewal, and reevaluation decisions shall contain a sufficient explanation and analysis of any significant adverse environmental effects, why any effects are determined not to be significant, and mitigation measures and alternatives, in order to provide sufficient information to the public and department to make an informed decision. Adverse environmental effects discussed shall include the impact on health of humans, plants and animals, and contamination of air, soil, and water.

SECTION 6. Chapter 10 is added to Division 21 of the Health and Safety Code, to read:

CHAPTER 10. AGRICULTURAL WORKER SAFETY

26950. The Director shall develop and implement a worker protection program to prevent or reduce exposure to pesticides to the lowest achievable level necessary to ensure that no exposed worker will suffer impairment of health or functional capacity, assuming lifetime occupational exposure at such levels. A... standard of general applicability shall be adopted by regulation.

26951. The Director shall require registrants to submit all data necessary to perform his or her duties, including California use condition data, and shall have access to all applicable data, including pesticide use records maintained by the Department of Food and Agriculture or county agricultural commissioners.

26952. No pesticide may be registered, or reregistered, by the Director of Food

and Agriculture, unless the Director of Health Services has determined that the pesticide complies with Title Three of the Environmental Protection Act of 1990.

26953. (a) Article 1 (commencing with Section 6700) of Group 3 of Subchapter 3 of Chapter 6 of Title 3 of the California Code of Regulations shall be deemed adopted as standards by the Occupational Safety and Health Standards Board. The Board shall revise such standards by January 1, 1992, to conform to the requirements of this Chapter.

(b) The Standards Board, based on recommendations from the Director, shall adopt regulations which, supported by clear and convincing evidence, shall:

(1) For each crop in this State, prescribe quarantine periods, after pesticide applications to a worksite, during which the entry of workers is prohibited, which periods will prevent the impairment of health or functional capacity of workers;

(2) Require posting of written notices that warn persons to avoid entering pesticide treated areas during such periods, which warnings shall be in addition to any other warnings required by law;

(3) Require county agricultural commissioners to retain all pesticide use records for a period of time sufficient to evaluate chronic health effects of exposure; and

(4) Protect the health and functional capacity of workers and prevent or reduce exposure, as provided in Section 26950.

(c) After January 1, 1992, unless a registrant demonstrates that a shorter quarantine period is safe, the minimum period for Toxicity Category I is 72 hours; for Category II, 48 hours; for Category III, 24 hours; and for pesticides subject to Sections 26901 or 26903, 7 days, or other generic quarantine periods that the Board, by regulation, determines, based on clear and convincing evidence and the recommendations of the Director, will fulfill the purposes of Section 26950.

26954. The Department shall, as lead agency, and with the assistance of the Departments of Industrial Relations and Food and Agriculture, develop a program to ensure the investigation and abatement of any condition where a health hazard from pesticides exists. Investigation and abatement of individual incidents shall be directly supervised by the Department when the Director determines that such supervision is warranted.

SECTION 7. Sections 50.8, 144.7, 144.8, 6382.1 and 6393.1 are added to the Labor Code, to read:

50.8. Chapter 6.6 of Division 20 of the Health and Safety Code, is a provision of state law governing occupational safety and health within the meaning of Section 50.7(a), and the pertinent parts of such Chapter, including Sections 25192 and 25249.7, shall be promptly incorporated into the State Plan.

144.7. The Board shall, by January 1, 1992, adopt regulations providing agricultural workers with rights at least as protective as the rights provided to other workers pursuant to Chapter 2.5 of Part 1 of Division 5. Such regulations shall include all registered pesticides as hazardous substances within the meaning of Section 6382 and shall permit workers, their physicians and representatives appropriate access to material safety data sheets prepared pursuant to Section 6390, and to pesticide use records.

144.8. Nothing in this Code, in the Health and Safety Code, or in the Food and Agricultural Code, shall be construed to limit the authority of the Board to adopt, and the Division to enforce, pesticide safety standards in agricultural employment in this state.

6382.1. "Substances" as used in Section 6382(b)(4) includes all pesticides registered in this state.

6393.1. The term "if the product is labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended," as used in Sections 6393 and 6397(c), shall not be interpreted to relieve any person, otherwise subject thereto, from the duty to provide an MSDS to a specific purchaser of a pesticide registered in this state.

SECTION 8. Health and Safety Code Sections 26205, 26206, 26801, and 26802 are repealed.

~~26205. (a) All pesticide regulations and any amendments to these regulations adopted pursuant to the federal act or the Food and Agricultural Code, which are in effect on November 23, 1970, or which are adopted on or after this date, are the pesticide regulations in this state. The department may, by regulation, prescribe tolerances for pesticides in processed foods in this state whether or not these tolerances are in accordance with the regulations adopted pursuant to the federal act or the Food and Agricultural Code.~~

~~(b) Except as otherwise provided in this subdivision, the department shall evaluate the tolerance prescribed, or an exemption from a tolerance granted, for a pesticide in processed foods and make a determination whether or not the existing tolerance, or the exemption from a tolerance, is protective of the public health whenever any one of the following occurs:~~

~~(1) The Director of Food and Agriculture designates the pesticide as a restricted material pursuant to subdivisions (a) and (b) of Section 14004.5 of the Food and Agricultural Code.~~

~~(2) The Director of Food and Agriculture refuses to register or cancels the registration of the pesticide pursuant to Section 12825, or suspends the registration of the pesticide pursuant to Section 12826, of the Food and Agricultural Code, upon determining that the pesticide is detrimental to the public health and safety.~~

~~(3) The Director of Food and Agriculture adopts regulations restricting worker entry into areas treated with the pesticide pursuant to Section 12981 of the Food and Agricultural Code.~~

~~(4) The pesticide is the subject of a proceeding pursuant to a determination by the Environmental Protection Agency under paragraph (3)(i)(A), (3)(ii)(A), (3)(ii)(B), or (3)(iii) of subsection (a) of Section 162.11 of Title 40 of the Code of Federal Regulations.~~

~~The requirement to evaluate a tolerance prescribed, or an exemption from a tolerance granted, for a pesticide does not apply if the department finds that any of the actions described in paragraphs (1) to (4), inclusive, occurred for reasons that are not related to the question whether or not the existing tolerance, or the exemption from a tolerance, adequately protects the public health. If the department makes such a finding, the reasons for the finding shall be stated in writing.~~

~~(c) The determination required by subdivision (b), and the reasons for the determination, shall be stated in writing. If the determination is required because any of the actions described in paragraphs (1) to (4), inclusive, of subdivision (b) occurs after January 1, 1985, the determination shall be completed within one year of the date of the action. If the determination is required because any of those actions occurred prior to January 1, 1985, the determination shall be completed by January 1, 1990.~~

~~(d) In any case where the department, after consultation with the Department of Food and Agriculture, determines, pursuant to subdivision (b), that the tolerance prescribed, or an exemption from a tolerance granted, for a pesticide is not protective of the public health, the department shall, if it does not act immediately pursuant to subdivision (a), transmit notice of its determination to the responsible federal agencies and shall request that they take action, pursuant to the federal act, to modify the tolerance or an exemption from a tolerance. If, after one year from the date the notice is transmitted, the department finds that the responsible federal agencies have failed to take appropriate action to protect the public health, the department shall exercise its authority pursuant to subdivision (a) to prescribe a tolerance that is protective of the public health and shall notify the responsible federal agencies of its action.~~

~~26206. All food additive regulations and any amendments to such regulations adopted pursuant to the federal act which are in effect on November 23, 1970, or which are adopted on or after such date, are the food additive regulations of this state. The department may, by regulation, prescribe conditions under which a food additive may be used in this state whether or not such conditions are in accordance with the regulations adopted pursuant to the federal act.~~

~~26801. Any person who violates any provision of this division or any regulation adopted pursuant to this division shall, if convicted, be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars ($1,000), or both the imprisonment and fine. If the violation is committed after a previous conviction under this section which has become final, or if the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year in the county jail, imprisonment in state prison, or a fine of not more than ten thousand dollars ($10,000), or both the imprisonment and fine.~~

~~26802. One-half of all fines collected by any court or judge for any violation of any provision of this division shall be paid into the State Treasury to the credit of the General Fund.~~

SECTION 9. Labor Code Section 6399.1 is repealed.

~~6399.1. Compliance with regulations of the Director of Food and Agriculture issued pursuant to Section 12981 of the Food and Agricultural Code shall be deemed compliance with the obligations of an employer toward his or her employees under this chapter.~~

SECTION 10. Food and Agricultural Code Sections 12501, 12502, 12503, 12504, 12505, 12561, 12562, 12563, 12565, 12582, 12608.5, 12671, 12980, 12981, 12982, 12985, 12986, 12998, and 13000 are repealed.

~~12501. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.~~

~~12502. "Food" means any article which is used for food or drink for man or any other animal, or for a component of any such article.~~

~~12503. "Pesticide chemical" means any substance that is used in the production, storage, or transportation of produce which is an "economic poison" as defined in Section 12753.~~

~~12504. "Produce" means any food in its raw or natural state which is in such form as to indicate that it is intended for consumer use with or without any or further processing.~~

~~12505. "Pesticide residue" means any pesticide chemical which is added to produce.~~

~~12561. The director by regulation may establish permissible tolerances for any pesticide chemical in or on produce if he or she finds each of the following:~~

~~(a) The pesticide chemical is useful for the production and marketing of the produce.~~

~~(b) The presence of the pesticide chemical as pesticide residue in quantities within the tolerances so established is not deleterious to the health of man or animals.~~

~~12562. The director may exempt any pesticide chemical from the requirement of a tolerance if he finds that the pesticide chemical may safely be used without a tolerance.~~

~~12563. The director may establish the tolerance for any pesticide chemical on produce at zero if he finds that a greater tolerance is not justified.~~

~~12565. If a tolerance for a pesticide chemical in or on produce is established pursuant to any law of the United States, the director may review the tolerance, and if he finds that it is in accordance with the standards and provisions of this chapter, he may establish a like tolerance pursuant to this chapter.~~

~~12582. The director shall immediately notify the State Director of Health Services by telephone, with immediate written confirmation, whenever a lot of produce destined for processing is found to be in violation of this chapter.~~

~~12608.5. Upon demand of the owner or person in rightful possession of the produce for permission to remove the produce destined for processing, the director shall release the produce to the custody of the State Director of Health Services.~~

~~12671. It is unlawful for any person to pack, ship, or sell any produce that carries pesticide residue in excess of the permissible tolerance which is established by the director pursuant to this chapter.~~

~~12980. The Legislature hereby finds and declares that it is necessary and desirable to provide for the safe use of pesticides and for safe working conditions for farmworkers, pest control applicators, and other persons handling, storing, or applying pesticides, or working in and about pesticide-treated areas.~~

~~The Legislature further finds and declares that the development of regulations relating to pesticides and worker safety should be the joint and mutual~~

~~responsibility of the Department of Food and Agriculture and the State Department of Health Services.~~

~~The Legislature further finds and declares that in carrying out the provisions of this article, the University of California, the Department of Industrial Relations, and any other similar institution or agency should be consulted.~~

~~12981. The director shall adopt regulations to carry out the provisions of this article. Such regulations shall include, but are not limited to, all of the following subjects:~~

~~(a) Restricting worker reentry into areas treated with pesticides determined by the director to be hazardous to worker safety by using either or both of the following:~~

~~(1) Time limits.~~

~~(2) Pesticide residue levels on treated plant parts determined by scientific analysis to not be a significant factor in cholinesterase depression or other health effects.~~

~~When the director has adopted regulations pursuant to both paragraphs (1) and (2), the person in control of the area treated with the pesticide shall have the option of following regulations adopted pursuant to either paragraph (1) or (2). If the person in control of the area treated with the pesticide chooses to follow regulations adopted pursuant to paragraph (2), the director may establish and charge the person a fee necessary to cover any costs of analysis or costs incurred by the director or commissioner in carrying out regulations adopted pursuant to paragraph (2). The regulations shall include a procedure for the collection of the fee, and the fee shall not exceed actual cost.~~

~~(b) Handling of pesticides.~~

~~(c) Hand washing facilities.~~

~~(d) Farm storage and commercial warehousing of pesticides.~~

~~(e) Protective devices, including, but not limited to, respirators and eyeglasses.~~

~~(f) Posting, in English and Spanish, of fields, areas, adjacent areas or fields, or storage areas.~~

~~The State Department of Health Services shall participate in the development of any regulations adopted pursuant to this article. Such regulations that relate to health effects shall be based upon the recommendations of the State Department of Health Services. The original written recommendations of the State Department of Health Services, any subsequent revisions of those recommendations, and the supporting evidence and data upon which the recommendations were based shall be made available upon request to any person.~~

~~12982. The director and the commissioner of each county under the direction and supervision of the director, shall enforce the provisions of this article and the regulations adopted pursuant to it. The local health officer may assist the director and the commissioner in the enforcement of the provisions of this article and any regulations adopted pursuant to it. The local health officer shall investigate any condition where a health hazard from pesticide use exists, and shall take necessary action, in cooperation with the commissioner, to abate any such condition. The local health officer may call upon the State Department of Health Services for assistance pursuant to the provisions of Section 2951 of the Health and Safety Code.~~

~~12985. Any person who orders an employee to enter an area posted with a warning sign in violation of any worker safety reentry requirements promulgated pursuant to this article by the director is guilty of a misdemeanor. A violation of this article affecting any worker or workers constitutes a separate offense for each affected worker.~~

~~12986. (a) The director shall approve programs for training persons who handle or apply pesticides in aerial pest control operations. The training programs shall be consistent with, but not limited to, this article and may include participation by trainees in field practices or exercises dealing with the safe handling and application of pesticides and may include performance measurement of the practices and exercises.~~

~~(b) The approved training programs shall be conducted by industry qualified instructors. Industry qualified instructors are persons approved by the director.~~

~~(c) All persons who successfully complete an approved training program shall be issued a certificate of completion by industry qualified instructors, which shall be available for inspection by the director or a commissioner, or his or her representative. When the person completing an approved training program attended the program at the request or expense of the person's employer, the employer shall be provided a copy of the certificate of completion, which also shall be available for inspection by the director or a commissioner, or his or her representative.~~

~~12998. Any person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, shall be liable civilly in an amount not exceeding ten thousand dollars ($10,000) for each violation. Any person who commits a second or subsequent violation that is the same as a prior violation or similar to a prior violation or whose intentional violation resulted or reasonably could have resulted in the creation of a hazard to human health or the environment or in the disruption of the market of the crop or commodity involved, shall be liable civilly in an amount not to exceed twenty-five thousand dollars ($25,000). Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering the provisions of this division, and Division 6 (commencing with Section 11401).~~

~~13000. An action brought pursuant to this article shall be commenced by the director, the commissioner, the Attorney General, the district attorney, the city prosecutor, or the city attorney, as the case may be, within two years of the occurrence of the violation. However, when an investigation is completed and submitted to the director, the action shall be commenced within one year of that submission.~~

SECTION 11. Sections 25249.71, 25249.81, 26205 and 26801 are added to the Health and Safety Code, to read:

25249.71. Any person who has given notice in accordance with Section 25249.7(d) shall be permitted to intervene in any action brought pursuant to Section 25249.7 by the Attorney General, a district attorney, or a city attorney, on such terms as the court finds appropriate.

25249.81. The state's qualified experts identified and consulted pursuant to Section 25249.8(b) and (d) shall be subject to Chapter 7 of Title 9 of the Government Code.

26205. All pesticide and food additive regulations and any amendments adopted thereto pursuant to the federal act, the Health and Safety Code or the Food and Agricultural Code, which are in effect on November 7, 1990, are pesticide and food additive regulations in this state unless they are establis[illegible] revised or revoked pursuant to Sections 26901, 26905 or 26906. The Department may, by regulation, prescribe conditions under which a food additive may be used in this state, whether or not such conditions are in accordance with the regulations adopted pursuant to the federal act.

26801. Any person who violates any provision of this Division or any regulation adopted pursuant to this Division shall be subject to the terms of imprisonment and fines provided by Section 12996 of the Food and Agricultural Code, or to a civil penalty in the amount and subject to the procedures set forth in Section 12998 of the Food and Agricultural Code.

SECTION 12. Sections 12535.5, 12536, 12616, and 12998 are added to the Food and Agricultural Code, to read:

12535.5. The director shall maintain programs to monitor raw agricultural commodities for pesticide residues and other contaminants, using pesticide use and other data, and shall enforce tolerances and other standards for raw agricultural commodities. Monitoring shall emphasize pesticides which pose the greatest health risks, including those which are subject to Sections 26901 and 26903 of the Health and Safety Code, and which pose greater risks to children and infants and other sensitive population subgroups. The director shall also give emphasis to monitoring food imported into California and shall, at least annually, report the results of the programs to the Legislature.

12536. The director shall establish and implement a collection program under which, upon request of an agricultural pesticide user and without cost to the user, the Department shall collect and safely dispose, or arrange for collection and safe disposal, of any pesticide subject to Section 26901 of the Health and Safety Code.

12616. The provisions of this Chapter that apply to produce found to contain pesticide residues or other deleterious ingredients in excess of any maximum quantity or permissible tolerance established pursuant to this Chapter shall also apply to any processed food found to contain pesticide residues or other deleterious ingredients in excess of any maximum quantity or permissible tolerance, and shall also apply to any pesticide residue or other deleterious ingredient in excess of any maximum quantity or tolerances established pursuant to the Health and Safety Code, including Sections 26905 and 26906. However, Section 26901 shall not apply to food that was processed prior to November 7, 1990, or to food which bears a residue of any pesticides subsequently determined to be subject to Section 26901, by operation of Section 26903, that was processed before that subsequent determination. In addition, food processed prior to the revision of any tolerance pursuant to Section 26905 shall not be deem[illegible] adulterated.

12998. (a) Any person who violates any provision of this Division, or any regulation adopted pursuant to this Division relating to pesticides, shall be liable for a civil penalty, without regard to intent or negligence, not to exceed ten thousand dollars ($10,000), or for intentional, negligent or repeated violations, not to exceed twenty-five thousand dollars ($25,000), for each separate violation, or, for continuing violations, for each day that the violation continues.

(b) Liability under this Section may be imposed in a civil action or in an administrative proceeding governed by the procedures set forth in Health and Safety Code Section 25189.3 or any other provision of law.

(c) Any action brought pursuant to this Division relating to pesticides shall be commenced within three years of the occurrence of the violation or discovery of the facts constituting the grounds for commencing the action.

SECTION 13. Sections 26052 and 26504 of the Health and Safety Code are amended, to read:

26052. The provisions of this division shall be so construed as to not be in conflict with*: (1)* the provisions of *Title 3 of the Environmental Protection Act of 1990 or* the Food and Agricultural Code ~~of this state,~~ *and the rules and regulations adopted pursuant thereto, but if there is an actual or apparent conflict, Title 3 of the Environmental Protection Act of 1990 shall prevail;* or *(2)* with the provisions of the Alcoholic Beverage Control Act, Division 9 (commencing with Section 23000) of the Business and Professions Code, and the rules and regulations adopted pursuant thereto.

26504. Any added poisonous or deleterious substance, or any food additive, pesticide chemical, *active ingredient as defined in Section 26914(a)*, preservative, or color additive, shall be considered unsafe for use with respect to any food*, as defined in Section 26914(i), and such food is therefore adulterated,* unless there is in effect a regulation adopted pursuant to ~~Section~~ *Sections* 26205, ~~26206, or~~ 26207, *26905 or 26906* which limits the quantity and the use, or intended use, of such substance to the terms prescribed by such regulation ~~.~~ *and the quantity of residue is within the limits of that regulation.*

TITLE FOUR

SECTION 14. Part 7 is added to Division 26 of the Health & Safety Code, to read:

PART 7. GREENHOUSE GAS REDUCTION PLAN

44390. By January 1, 1993, the Energy Resources Conservation and Development Commission shall adopt and implement a plan to reduce annua[illegible] emissions of any gases which may contribute, directly or indirectly, to globa[illegible] warming. The plan shall provide for the maximum feasible net effective reduction in the global warming potential of these gases. The plan shall also require a net reduction in carbon dioxide emissions of twenty percent (20%) by January 1, 2000, measured from 1988 levels, and forty percent (40%) by January 1, 2010. These percentages shall be adjusted, if necessary, by a correction factor which reflects any difference between the projected rate of population growth in

California, and the projected rate for the United States.

For purposes of this Part, "net effective reduction in global warming potential" means a reduction, based on the best evidence available, of those air contaminants which contribute directly or indirectly to atmospheric warming, including but not limited to carbon dioxide, chlorofluorocarbons, halons, nitrous oxide and methane, weighted to reflect their respective contributions to global warming. Carbon dioxide emitted from the generation of electricity which is consumed within California shall be considered a part of California's emissions, regardless of where the electricity is generated.

44391. (a) The provisions of the plan specified by Section 44390 related to energy conservation and development and electrical power generation shall be prepared and implemented by the Commission. In preparing and implementing those provisions, the Commission shall consult with affected Districts to ensure that those provisions will not interfere with the attainment or maintenance of state or federal ambient air quality standards.

(b) The provisions of the plan related to emissions from vehicular sources and motor vehicle fuels shall be prepared and implemented by the Air Resources Board. That Board shall also prepare and implement provisions relating to any greenhouse gas emissions not specified by subdivision (a) or (c).

(c) The provisions of the plan related to stationary sources, indirect sources, area wide sources and transportation system use in a particular district may be prepared by the air pollution control district or air quality management district, at the district's option. If prepared by a district, the provisions shall be submitted to the Board which shall, after public hearing, approve or revise the submission. Districts shall adopt regulations to implement the measures in the plan relating to emissions from stationary sources, indirect sources, area wide sources and transportation system use, provided that districts may adopt and enforce regulations more effective in reducing emissions than measures contained in the plan.

(d) The plan provisions prepared by the Board and any district shall be submitted to the Commission by June 30, 1992.

44392. All state and local agencies shall adopt any necessary regulations to implement the plan prepared and adopted pursuant to Section 44390, and shall not take any action inconsistent with that Plan.

SECTION 15. Part 8 is added to Division 26 of the Health and Safety Code, to read:

PART 8. STRATOSPHERIC OZONE LAYER PROTECTION

44450. For purposes of this Part:

(a) "Group I chemical" means chlorofluorocarbon-11, chlorofluorocarbon-12, chlorofluorocarbon-113, chlorofluorocarbon-114, chlorofluorocarbon-115, halon-1211, halon-1301, halon-2402, carbon tetrachloride, methyl chloroform, and any mixture containing one or more such chemical.

(b) "Group II chemical" means any hydrochlorofluorocarbon (HCFC) and any other chemical determined by the Air Resources Board to have the potential to deplete stratospheric ozone, and any mixture containing one or more such chemical.

44451. (a) No later than January 1, 1993:

(1) The maximum feasible recovery and recycling of Group I chemicals shall be conducted during the servicing or disposal of any air conditioning and refrigeration systems and appliances, including vehicular air conditioners, and during the disposal of building and appliance insulation;

(2) Any person shall be prohibited from manufacturing, selling, or offering for sale or use any Group I chemical in a container which contains less than 15 pounds of such chemical (except for specific pharmaceutical applications and fire extinguishing applications for which the Board, after a public hearing, has determined there is no commercially available adequate alternative);

(3) Any person shall be prohibited from manufacturing, selling, or offering for sale or use any packaging material which contains or was manufactured with a Group I chemical; and

(4) The Board shall adopt regulations to ensure that any substitute or replacement for a Group I chemical does not endanger human health.

(b) Any person who uses a Group I chemical as a foam blowing agent, as a solvent for industrial cleaning, defluxing, or degreasing, or for any other industrial manufacturing purpose, shall reduce the atmospheric emissions of such chemical, by January 1, 1993, by at least ninety (90) percent from the amount emitted by such person in 1988.

(c) No later than January 1, 1995:

(1) Any person shall be prohibited from manufacturing, selling, or offering for sale or use any new motor vehicle, as defined in Sections 39042 and 43156, whether passenger or commercial, if such vehicle contains a vehicular air conditioner which uses a Group I chemical; and

(2) Any person shall be prohibited from manufacturing, selling, or offering for sale or use any insulating material, rigid foam material, or soft foam product containing a Group I chemical.

(d) No later than December 31, 1996, any person shall be prohibited from manufacturing, selling, or offering for sale or use any Group I chemical or any product containing, assembled or manufactured with such chemical, and from using any such chemical in any manufacturing, assembly, or packaging process.

44452. (a) Any person shall be prohibited from producing, assembling, packaging, selling, or offering for sale or use any aerosol product (other than a pharmaceutical product) containing a Group II chemical by January 1, 1992, or any foam product (other than insulating materials) containing or manufactured with a Group II chemical by January 1, 1994.

(b) Group II chemicals shall be subject to all of the requirements of Section 44451(a)(1).

(c) Any person shall be prohibited from manufacturing, selling, or offering for sale or use any Group II chemical or product containing, assembled or manufactured with such chemical, and from using any such chemical in any manufacturing, assembly, or packaging process after January 1, 2020.

44453. (a) Sections 44451 and 44452 shall not be construed to prohibit the continued use or resale of an individual article which contains a Group I or Group II chemical if such product was manufactured, sold or offered for sale or use before any applicable deadline therein.

(b) Section 44451 shall not be construed to prohibit the maintenance or service of any product with a Group I chemical, provided that after January 1, 1997, only recovered and recycled Group I chemicals are used for such purposes.

(c) The Air Resources Board shall adopt regulations as necessary to implement the requirements of this Part, including any additional measures, such as intermediate deadlines, necessary to achieve the purposes of Section 44452(c).

(d) The Board shall adopt regulations under which any person may petition, no later than one year prior to the applicable deadline, for an extension of a deadline established under Sections 44451 or 44452. The Board may grant, by regulation, up to three extensions of not more than two years each, provided the petitioner has demonstrated by clear and convincing evidence that:

(1) The petitioner has thoroughly and fairly considered all alternative chemicals, products, or processes that potentially would achieve compliance with the applicable deadline, or which would result in a lower level of ozone depletion;

(2) No such alternative is available for the petitioner's particular application;

(3) If the deadline is extended, the petitioner will implement all commercially available means to prevent the emission of Group I or Group II chemicals to the atmosphere; and

(4) The extension is necessary to avoid substantial and widespread economic and social hardships to the general public.

(e) Notwithstanding the provisions of subdivision (d), the Board may grant an extension or extensions of an applicable deadline as necessary for basic research purposes or for medical purposes.

44454. By regulation, the Board shall alter any deadline established pursuant to Sections 44451 or 44452, in order to establish an earlier deadline, if it finds that feasible and commercially practicable alternatives to specific uses of Group I or Group II chemicals are earlier available.

44455. (a) By January 1, 1993, the Bureau of Automotive Repair shall establish and administer a program mandating the installation and proper use of approved refrigerant recycling equipment by any person who services vehicular air conditioners, and enforcing the use of that equipment.

(b) As used in this Section and in Section 44451:

(1) "Approved refrigerant recycling equipment" means equipment that is approved by the Air Resources Board, in consultation with the Bureau of Automotive Repair which will minimize the amount of Group I chemicals released to the atmosphere; and

(2) "Vehicular air conditioner" means mechanical vapor compression refrigeration equipment used to cool the driver's or passenger compartment of any motor vehicle, or the refrigerated compartment of a commercial vehicle.

44456. Nothing in Part 7 or Part 8 of Division 26 shall be construed to remove or diminish the obligations of any person under Chapter 6.6 of Division 20 with regard to any substance to which Part 7 or Part 8 applies.

SECTION 16. Article 10.8 is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10.8. Commercial and Residential Tree Planting

65592. (a) By December 1, 1991, the Resources Agency shall adopt regulations requiring that any person who constructs a project plant one tree for each five hundred (500) square feet of such project.

(b) Such regulations shall provide for appropriate tree selection that maximizes air quality benefits (including absorption of gases that may contribute directly or indirectly to atmospheric warming), energy conservation, and appropriate long term maintenance of the trees planted.

(c) The regulations shall also provide that tree planting shall be done, in the following order of priority:

(1) On the site of the project;

(2) On private property, or along public streets, within five miles of the site of the new development; or

(3) On public or private land, or along public streets, within the same geographical area.

(d) The regulations shall further establish procedures for payment of an appropriate fee to a locally designated agency, or other agency determined by the Resources Agency, in lieu of planting and maintenance, to be used solely for the planting and maintenance of trees.

(e) The regulations shall exempt any project of less than five hundred (500) square feet of construction, and any project which involves remodeling or replacement of a single family home, from the requirements of this Section.

SECTION 17. Chapters 5, 6 and 7 are added to Part 2.5 of Division 4 of the Public Resources Code, to read:

CHAPTER 5

Article 1

4801. As used in Chapters 5, 6 and 7 of this Part, "stand of ancient redwood" means a forested area containing at least six trees per acre of the species Sequoia sempervirens greater than 32 inches diameter at breast height or greater than 175 years old.

Article 2

4802. The Ancient Redwood Forest and Reforestation Fund is hereby created.

4803. (a) Notwithstanding Section 13340 of the Government Code, all money deposited in the Ancient Redwood Forest and Reforestation Fund is hereby continuously appropriated to the Wildlife Conservation Board, without regard to fiscal years, for (1) acquisition of stands of ancient redwood; (2) for grants to itself and to other public agencies, public land trusts or nonprofit organizations, for urban forestry projects, as defined by Section 4799.09, and for their maintenance, or to establish, rehabilitate, maintain or restore forest lands by reforestation, or for public planting or maintenance or other appropriate rural

forest resource improvement projects; and (3) for associated administrative costs of the Board or other agency in carrying out these programs. The Secretary of the Resources Agency may select a Department within the Resources Agency, other than the Wildlife Conservation Board, to administer the program established by subparagraph (2).

(b) No later than August 15, 1991, the Wildlife Conservation Board shall establish, after public hearing, a priority list of stands of ancient redwood which should be acquired by the State of California. In establishing that list, the Board shall consider, but not be limited to, whether the possible acquisition is threatened by logging, would preserve an undisturbed stand of ancient redwood, provide a representative example of the coastal redwood forest which previously existed, provide critical habitat to plants and animals, provide opportunities for public access, and whether it could be effectively managed to preserve its values. The Board shall give highest priority to acquisition of the largest remaining stands of ancient redwood (measured alone or in conjunction with other contiguous acquisitions) never previously subject to timber harvesting.

As promptly as feasible after the establishment of the priority list, but no later than November 7, 1991, the Board shall begin acquisition of the stands of ancient redwood, with an aggregate market value of two hundred million dollars ($200,000,000), by entering into binding agreements for purchase or by initiating condemnation proceedings. Upon acquisition, the stands shall be managed in perpetuity to preserve their integrity and value as ancient redwood forest, free from logging, and the Secretary of the Resources Agency may designate such stands as ecological preserves within the meaning of Section 1580 of the Fish and Game Code, notwithstanding the provisions of Section 1582.

(c) Where the owner of a stand of ancient redwood designated for acquisition is unwilling to sell voluntarily, the Board shall utilize the eminent domain authority of the State of California to acquire the property by eminent domain. In any case where the stand of ancient redwood designated for acquisition is threatened by logging, and where the owner is unwilling to sell voluntarily, the Board shall utilize the procedures for possession prior to judgment specified in Article 3 of Chapter 6 of Title 7 of Part 3 of the Code of Civil Procedure.

(d) In exercising such authority, the Board shall consider alternatives to acquisition in fee, including easements, development rights, life estates, leases and leaseback arrangements, to the extent that they may result in acquisition of a greater amount of ancient redwood, but in all cases the stand of ancient redwood shall be preserved and shall not be subject to timber harvesting. Reference in Chapter 5 or Chapter 6 to the acquisition of stands of ancient redwood means acquisition of fee simple title or of lesser interests under this subsection.

CHAPTER 6

4804. Bonds in the total amount of three hundred million dollars ($300,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes expressed in Section 4803 and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest as they become due and payable.

4805. The proceeds of bonds and notes issued and sold pursuant to this Chapter shall be deposited in the Ancient Redwood Forest and Reforestation Fund created by Section 4802. Two hundred million dollars ($200,000,000) shall be allocated for the purposes of acquiring stands of ancient redwood, and one hundred million dollars ($100,000,000) shall be allocated for the remaining purposes specified by Section 4803.

4806. The bonds authorized by this Chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 [commencing with Section 16720] of Part 3 of Division 4 of Title 2 of the Government Code), and all provisions of that law shall apply to the bonds and are hereby incorporated in this Chapter as though set forth in full in this Chapter.

4807. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this Chapter, the Ancient Redwood Forest and Reforestation Finance Committee is hereby created, and for purposes of this Chapter is "the committee" as that term is used in the State General Obligation Bond Law. The committee shall consist of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of this Chapter and the State General Obligation Bond Law, the Wildlife Conservation Board is hereby designated as "the board."

4808. The committee shall act as expeditiously as is consistent with generally accepted principles of fiscal prudence to enable the board to carry out the purposes of Chapter 5. In so doing, the committee shall determine when it is necessary or desirable to issue bonds authorized pursuant to this Chapter in order to carry out the purposes of Chapter 5, and the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those purposes progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

4809. There shall be collected annually in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

4810. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for the purposes of Chapter 5, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this Chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 4809, appropriated without regard to fiscal years.

4811. For the purpose of carrying out Chapter 5, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the commit to be sold for the purposes of carrying out those provisions. Any amoun withdrawn shall be deposited in the fund created by Section 4802. Any money made available under this section shall be returned to the General Fund from money received from the sale of bonds which would otherwise be deposited in the fund created by Section 4802.

4812. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in the General Fund, in accordance with Section 16312 of the Government Code, to carry out Chapter 5. The amount of the loan shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of Chapter 5. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated in accordance with Chapters 5 and 6.

4813. All money derived from premium and accrued interest on bonds sold shall be reserved and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

4814. Any bonds issued or sold pursuant to this Chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of the bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

4815. (a) Notwithstanding Section 16312 of the Government Code and Section 4812, the interest on any loans made from the Pooled Money Investment Account to the fund in order to carry out the purposes of Chapter 5 shall be paid from the General Fund.

(b) Notwithstanding Section 13340 of the Government Code, the amounts required to be paid pursuant to subdivision (a) are hereby continuously appropriated from the General Fund.

(c) The appropriations for interest payments pursuant to subdivision (b) are appropriations for debt service, as defined in Section 8 of Article XIII B of the California Constitution, and are therefore exempt from the appropriations limit set by that Article.

4816. The People of the State of California hereby find and declare that, since the proceeds from the sale of bonds authorized by this Part are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, th disbursement of these proceeds is not subject to the limitation imposed by t Article.

4817. It is the intent of the People of the State of California in enacting Chapters 5 and 6 that the bond funds authorized by Chapter 6 shall not be used to displace any existing sources of funds for the purposes authorized by Section 4803.

CHAPTER 7

4818. Between November 7, 1990, and November 7, 1991, to the extent constitutionally permissible, no logging shall occur, and no timber harvesting plan authorizing such logging shall be approved, within any stand of ancient redwood which, alone or in conjunction with any contiguous stand under public ownership, measures ten (10) or more acres and which has never previously been subject to timber harvesting.

4819. Any stand of ancient redwood may be logged only by using the selection method. For purposes of this Section, "selection method" means a silvicultural system in which continuous forest cover remains following completion of logging operations, and in which the stand is at all times composed of trees of various ages and sizes.

SECTION 18. Public Contract Code Section 12161 is repealed.

~~12161. For the purpose of this article, "recycled paper product" means all paper and woodpulp products containing postconsumer waste and secondary waste materials, as defined in this section. "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary waste" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.~~

~~"Recycled paper product" means a paper product with not less than 50 percent of its total weight consisting of secondary and postconsumer waste with not less than 10 percent of its total weight consisting of postconsumer waste.~~

SECTION 19. Section 12161 is added to the Public Contract Code, to read:

12161. For the purpose of this Article, "recycled paper product" means all paper and woodpulp products containing postconsumer waste and secondary waste materials as defined in this Section. "Postconsumer waste" means a finished material which would normally be disposed of as solid waste, havi completed its life cycle as a consumer item. "Secondary waste" means fragme of finished products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value and includes postconsumer waste, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than fifty percent of its total weight consisting of secondary

and postconsumer waste with not less than ten percent of its total weight consisting of postconsumer waste.

SECTION 20. Sections 12162, 12163, and 12168 of the Public Contract Code are amended, to read:

12162. (a) The department *and other state agencies*, in consultation with the board, shall revise ~~its~~ *their* procedures and specifications for state purchases of paper products, to give preference~~, wherever feasible,~~ to the purchase of paper products containing recycled paper ~~products~~ as defined pursuant to Section 12161.

(b) The department *and other state agencies* shall give ~~a~~ preference to the suppliers of recycled paper products as defined pursuant to Section 12161. This preference shall be ~~up to 5~~ *10* percent of the lowest bid or price quoted by suppliers offering nonrecycled paper products. In bids in which the state has reserved the right to make multiple awards, the recycled paper preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of recycled business in the contract award.

~~(c) The combined dollar amount of preference granted pursuant to this section and any other provision of law shall not exceed one hundred thousand dollars ($100,000).~~

~~(d) Notwithstanding subdivision (b), and subdivision (a) of Section 12168, the recycled paper bidder preference shall not exceed fifty thousand dollars ($50,000) if a preference exceeding that amount would preclude an award to a small business that offers nonrecycled paper products and is qualified in accordance with Section 14838 of the Government Code. This subdivision shall apply only when the small business is the lowest responsible bidder or is eligible for contract award on the basis of application of the 5 percent small business preference.~~

~~(e)~~ *(c)* To encourage the use of postconsumer waste, the ~~department's~~ specifications *of the department and other state agencies* shall require recycled paper product contracts to be awarded to the bidder whose paper ~~product~~ contains the greater percentage of postconsumer waste if the fitness and quality and price meet the requirements in Sections 12161 and 12162.

~~(f)~~ *(d)* The ~~department~~ *procuring agencies* shall set the following goals for the purchasing of recycled paper products:

(1) By January 1, 1992, at least 35 percent of the total dollar amount of paper products purchased or procured by the ~~department~~ *procuring agencies* shall be purchased as a recycled paper product.

(2) By January 1, 1994, at least 40 percent of the total dollar amount of paper products purchased or procured by the ~~department~~ *procuring agencies* shall be purchased as a recycled paper product.

(3) By January 1, 1996, at least 50 percent of the total dollar amount of paper products purchased or procured by the ~~department~~ *procuring agencies* shall be purchased as a recycled paper product.

~~(g)~~ *(e)* Procuring agencies shall report to the department on their progress in meeting the goals and shall submit to the department a detailed plan to meet the goals. The department shall develop a uniform reporting procedure by which ~~procuring~~ agencies *procuring products* shall abide. If at any time a goal has not been met, the department, in consultation with the board, shall review procurement policies and shall make recommendations for immediate ~~revisions~~ *revision* to ensure that each goal is met. ~~Revisions include, but are not limited to, raising the purchasing preference and altering the goals for all or each recycled product. The department, in consultation with the board, shall present its conclusions and recommendations on these revisions or procurement policies to the Legislature in the department's annual report pursuant to Section 12225.~~

12163. (a) The director, in consultation with the board, shall review the procurement specifications currently used by the department *and other state agencies* in order to eliminate~~, wherever economically feasible,~~ discrimination against the procurement of recycled paper products.

(b) The director, in consultation with the board, shall review the recycled paper product *content* specifications at least annually to consider increasing the percentage of recycled paper product in paper and woodpulp product purchases. The director shall include his or her conclusions and recommendations in the department's annual report pursuant to Section 12225.

(c) When contracting with the department for the sale of material subject to this article, the contractor shall certify in writing to the contracting officer or his or her representative that the material offered contains the minimum percentage of recycled paper required by Section 12161 and shall specify the minimum, if not exact, percentage of secondary and postconsumer waste in the paper products. The certification shall be furnished under penalty of perjury.

(d) The department, in consultation with the board, shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of materials which may be recycled or reused when discarded.

(e) The department shall make every effort to eliminate purchases of paper products deemed potential contaminants to the state's recycling program pursuant to Section 12165.

12168. (a) *Notwithstanding Sections 41074 and 41374 of the Public Resources Code,* ~~Fitness~~ *fitness* and quality being *functionally* ~~equal~~ *adequate*, all local ~~and state public agencies shall purchase recycled paper products instead of nonrecycled paper products whenever available at no more than the total cost of nonrecycled paper products. All local public~~ agencies *shall* ~~may~~ give preference to the suppliers of recycled paper products~~.~~*, including but not limited to printed recycled paper products purchased or contracted for through commercial printers. This preference shall be at least 10 percent of the lowest bid or price quoted by suppliers offering nonrecycled paper products. For the purpose of this section, "local agencies" means every city, county, city and county, school district, and community college.* ~~All local public agencies may define the amount of this preference.~~ In bids in which the *local agency* ~~state~~ has reserved the right to make multiple awards, the recycled paper preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of firms offering recycled paper in the contract award.

~~(b) The combined dollar amount of preferences granted pursuant to this section and any other provisions of law shall not exceed one hundred thousand dollars ($100,000).~~

~~(c) Notwithstanding subdivision (a), and subdivision (b) of Section 12162, the recycled paper bidder preference shall not exceed fifty thousand dollars ($50,000) if a preference exceeding that amount would preclude an award to a small business that offers nonrecycled paper products and is qualified in accordance with Section 14838 of the Government Code. This provision shall apply only when the small business is the lowest responsible bidder or is eligible for contract award on the basis of application of the 5/percent business preference.~~

(b) If a local agency can demonstrate that existing levels of service have been or will be reduced because of financial obligations imposed by this Section, they shall be entitled to receive reimbursement and may apply for reimbursement from the Integrated Waste Management Account for the costs associated with this Section which are above those costs ordinarily incurred for the procurement of paper products.

TITLE FIVE

SECTION 21. Division 27 is added to the Public Resources Code, to read:

DIVISION 27. BAY, ESTUARINE AND OCEAN WATER PROTECTION

CHAPTER 1. MARINE RESOURCES SANCTUARY

37010. A Marine Resources Sanctuary is hereby created which includes all state marine bay, estuarine and ocean waters. To protect the Sanctuary and its resources:

(a) No state agency or official shall enter into any lease for the extraction of oil or gas therefrom, unless the President of the United States has found a severe energy supply interruption and has ordered distribution of the Strategic Petroleum Reserve pursuant to 42 U. S. C. Section 6241(d), and the Governor of California finds that the energy resources of the Sanctuary will contribute significantly to the alleviation thereof.

(b) On and after January 1, 2000, no publicly owned treatment work shall discharge pollutants to the waters of the Sanctuary without at least secondary treatment, as defined by the federal Clean Water Act. No state agency or official shall approve, reapprove or concur in a waiver of such a secondary treatment requirement which would allow the discharge, after January 1, 2000, of pollutants to the waters of the Sanctuary, without at least secondary treatment.

37011. Where necessary to maintain, protect or enhance the quality of the waters of the Sanctuary or its resources, the State Lands Commission or the California Coastal Commission may issue cease and desist orders pursuant to the procedures of Government Code Sections 66637 through 66641, with respect to any permit, lease, license or other approval or authorization for any activity requiring a permit, lease, license or other approval or authorization, and may levy administrative civil fines pursuant to the procedures and limitations of Government Code Sections 66641.5 through 66641.9. The maximum liability for violation of any such cease and desist order shall not exceed $25,000 per day. Any monies recovered hereunder by the State Lands Commission shall be deposited in the Land Bank Fund created by Section 8610, and any monies recovered hereunder by the California Coastal Commission shall be subject to Section 30823.

CHAPTER 2. OIL SPILL PREVENTION AND CLEANUP

37020. A State Oil Spill Coordinating Committee is hereby created, composed of the chairpersons of the California Coastal Commission and State Lands Commission, and the Director of the Department of Fish and Game, or their designees, to coordinate compliance with this Chapter.

37021. After January 1, 1992, no lease shall be issued or renewed for a potential source of oil spills, which source is located on granted or ungranted tidelands, unless the State Lands Commission has adopted, by regulation, the State Oil Spill Prevention Plan. The Plan shall:

(a) Be applicable to all potential sources of oil spills which may affect the Sanctuary and its resources;

(b) Be implemented through regulatory and land use actions by all agencies with jurisdiction over prevention measures identified in the Plan for potential sources of oil spills not within the jurisdiction of the State Lands Commission;

(c) Specify the prevention measures applicable to potential sources of oil spills including, but not limited to, requirements for the use of tugboat escorts for tankers, establishment of emergency stations for disabled tankers, and periodic inspections of potential sources of oil spills; and

(d) Include requirements for financial responsibility applicable to potential sources of oil spills operating in or adjacent to the Sanctuary.

37022. (a) By January 1, 1992, the California Coastal Commission, in consultation with the State Lands Commission and the Department of Fish and Game, shall specify requirements for oil spill contingency plans for all potential sources of oil spills which may affect the Sanctuary established by Chapter 1, to the extent not preempted or prohibited by federal law.

(b) After January 1, 1992, no permit or approval required by state or federal law from the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, for any development or activity which may involve a potential source of an oil spill, shall be approved unless an oil spill contingency plan has been approved by the appropriate Commission.

(c) The requirements specified by the Commission pursuant to subdivision (a) shall ensure that each oil spill contingency plan incorporates the best available containment and cleanup technology and provides for maximum possible protection of the Sanctuary and its resources.

37023. By January 1, 1992, the California Coastal Commission shall adopt regulations for the preparation of local government and port oil spill contingency plans which shall be submitted to the Commission for certification and which shall be incorporated into certified local coastal programs and port master plans pursuant to the procedures of Chapters 6 and 8 of Division 20.

SECTION 22. Article 7 is added to Chapter 3 of Division 2 of the Fish and Game Code, to read:

Article 7. Oil Spill Prevention and Response

1250. The Office of Oil Spill Response is hereby created in the Department of Fish and Game which shall be responsible for, and direct, all activities relating to oil spill response, including interagency coordination, oil spill contingency training and implementation of oil spill contingency plans. A Deputy Director of the Department of Fish and Game shall serve as Administrator of the Office.

(a) In the event of an oil spill into the waters of the state, the Administrator is authorized to expend from the Fund created by Public Resources Code Section 6230, such moneys as he or she deems necessary to respond to the spill, assess the damage from the spill, restore the affected resources, and make emergency loans to victims of the spill.

(b) Any person responsible for the spilling or discharging of oil into the waters of the state, and each of their agents or employees, shall comply with directions of the Administrator regarding oil spill response, containment, and cleanup, subject to the overriding authority of the United States Coast Guard. Failure to comply with any such directions shall result in civil liability of the responsible party to the State of California of not less than ten thousand dollars ($10,000) nor more than two hundred fifty thousand dollars ($250,000) per day.

(c) The Administrator shall have sole state authority over the use of dispersants and any oil spill cleanup agents in connection with an oil spill or discharge, consistent with the regulations adopted pursuant to Water Code Section 13169.

(d) The Administrator, in coordination with the California Coastal Commission, State Lands Commission and the United States Coast Guard shall carry out periodic announced and unannounced oil spill drills which shall ensure compliance with, and ability to implement, oil spill contingency plans and state interagency plans adopted pursuant to Government Code Section 8574.1.

SECTION 23. Section 8574.1 of the Government Code is amended, to read:

8574.1. ~~In addition to any other authority conferred upon the Governor by this chapter, the Governor may establish a state oil spill contingency plan pursuant to the provisions of this article.~~ *The Governor shall establish a State Interagency Oil Spill Contingency Plan pursuant to the provisions of this Article, Division 7.8 of the Public Resources Code, and Division 2 of Chapter 3 of Article 7 of the Fish and Game Code. The Plan shall be reviewed every two years and modified as appropriate.*

SECTION 24. Chapter 3.5 of Part 1 of Division 6 is added to the Public Resources Code, to read:

CHAPTER 3.5. OIL SPILL PREVENTION AND RESPONSE FUND

6230. The Oil Spill Prevention and Response Fund is hereby created. All money collected pursuant to Section 6232 shall be deposited in the Fund.

6231. (a) Notwithstanding Section 13340 of the Government Code, all money deposited in the Oil Spill Prevention and Response Fund is hereby continuously appropriated to the Office of Oil Spill Response and the Administrator thereof, without regard to fiscal years, for the purposes specified by Fish and Game Code Section 1250(a). The Legislature shall appropriate monies in the Fund, only as follows:

(1) The State Lands Commission, the California Coastal Commission, and the Department of Fish and Game, shall each receive five percent (5%) of the Fund in the first year in which monies become available for expenditure from the Fund, four percent (4%) of the Fund in the second year, three percent (3%) of the Fund in the third year, two percent (2%) of the Fund in the fourth year, and one percent (1%) of the Fund in the fifth and each succeeding year thereafter, to be used as necessary to develop, implement and administer the responsibilities imposed by Chapter 2 of Division 27 of the Public Resources Code, by Article 7 of Chapter 3 of Division 2 of the Fish and Game Code, and by this Chapter.

(2) The amount appropriated to each agency pursuant to subdivision (a)(1) shall not exceed two and one-half million dollars ($2,500,000) annually, unless the Legislature determines otherwise.

(3) Monies in the Fund shall not be reappropriated.

(4) All amounts appropriated pursuant to this Section which are not encumbered within the period prescribed by law shall revert to the Fund.

(b) Any appropriations made pursuant to this Section shall be used only for the purposes expressed, shall be used to supplement current levels of funding, and shall not be used to displace any existing sources of funds for the purposes authorized.

6232. The State Lands Commission shall be responsible for collecting and administering the Oil Spill Prevention and Response Fund.

(a) The Commission shall impose an oil spill prevention and response fee on each barrel of oil delivered to marine terminals by tanker, or through pipeline across, through or under state waters. That fee shall be commensurate with the oil spill risk posed by the method of transportation and volume of oil transported, but shall not in any case exceed twenty-five cents ($0.25) per barrel. No fee shall be imposed on any oil owned by a public entity.

(b) The fee shall be assessed at a rate sufficient for the Fund to reach five hundred million dollars ($500,000,000) within six (6) years, at which point it shall be considered fully funded and equivalent to the oil spill risks posed. The fee shall be adjusted annually to ensure that the Fund remains within 15% of its fully funded level. Any and all interest collected shall be retained in the Fund.

(c) The Attorney General shall bring appropriate actions to recover from responsible parties expenditures from the Fund, and in successful proceedings shall be entitled to costs and attorney's fees.

(d) The State Lands Commission is authorized to reduce the size of the Fund required by subdivision (b) to a level it determines appropriate, if federal or state legislation enacted after October 10, 1989, establishes a similar fund, and if the Commission finds, after public hearing, that the federal or state legislation and fund are sufficient to provide at least the level of protection for marine resources and the People of the State of California required by state law.

6233. For purposes of this Chapter, Division 27 of this Code, and Section 1250 of the Fish and Game Code:

(a) "Potential source of oil spills" means any facility of any kind, other than a tanker, which is or can be used for the purpose of exploring for, drilling for, producing, storing, handling, transferring, processing, refining or transporting oil including, but not limited to, marine terminals used for transferring oil to or from tankers, offshore pipelines, offshore oil exploration rigs and platforms, and development and production rigs and platforms.

(b) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom.

(c) "Operator" has the same meaning as "responsible person" as defined in Harbors and Navigation Code Section 294(g)(7)(B).

(d) "Responsible person" has the same meaning as in Harbors and Navigation Code Section 294(g)(7).

(e) "Tanker" means a vessel, including, but not limited to, oilers and barges, whether or not self-propelled, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

6234. The People of the State of California hereby find and declare that, since the oil spill prevention and response fee imposed pursuant to this Chapter is a fee which is directly related to and will not exceed the costs which the State will reasonably bear in responding to and preventing oil spills, the disbursement of the proceeds of the fee in the manner specified is not subject to the limitation imposed by Article XIII B of the California Constitution.

SECTION 25. Section 30232.5 is added to the Public Resources Code, to read:

30232.5. Notwithstanding Section 30260, oil shall be transported by land pipeline unless the applicant establishes and the Commission finds:

(a) Transportation by pipeline is not feasible, or will not be feasible within a reasonable period of time because of pipeline unavailability, inadequate capacity, or unreasonable tariffs;

(b) Pipeline transportation has greater adverse environmental effects;

(c) All alternative pipeline routes and methods have been considered;

(d) The environmental impacts of the alternative transportation mode are mitigated to the maximum extent feasible; and

(e) The applicant has made an enforceable commitment to use a pipeline as soon as operational and available.

SECTION 26. Chapter 5.7 is added to the Water Code, to read:

CHAPTER 5.7. WATER QUALITY PROTECTION

13397. The most protective water quality criteria for toxic pollutants developed by the Environmental Protection Agency pursuant to Section 304(a) of the federal Clean Water Act are hereby adopted as water quality objectives, except where the Environmental Protection Agency approves a standard submitted by the State pursuant to Section 303 of the Clean Water Act, or where the State has adopted a more stringent standard pursuant to this Division.

13397.5. By January 1, 1993, sediment quality objectives, as defined by Section 13391.5(d), for toxic pollutants specified by Section 13392.6(a), shall be adopted as water quality standards for the state's marine bay, estuarine and coastal waters. Those standards shall ensure the full protection of public health and recreational values, and the full protection and propagation of fish, shellfish and their habitat.

13397.6. (a) The state board shall develop a statewide monitoring program to assess water and sediment quality and the biological health of marine bay, estuarine and ocean waters. The Board shall report biennially to the Governor and the Legislature on the water and sediment quality of such waters, and the health of marine resources. Each such report shall provide a descriptive and numerical comparative analysis of each bay, estuarine, and coastal water area from the status at the time of the prior report.

(b) Each regional board shall develop specific plans for full protection of public health and recreational values, and for the full protection and propagation of fish, shellfish and their habitat in the state's marine bay, estuarine and ocean waters. In developing such plans, the regional boards shall ensure full public participation of all interested parties.

13397.7. (a) By June 1, 1992, unless earlier required by federal or state law, the regional boards and the board shall establish total maximum daily loads, load allocations, and waste load allocations, as required by the federal Clean Water Act, for toxic pollutants which address all point and nonpoint industrial, municipal, agricultural, and other sources of discharge into any marine bay, estuarine or ocean waters. By June 1, 1994, unless earlier required by federal or other state law, the regional boards shall implement such total maximum daily loads, load allocations and waste load allocations, through the issuance or amendment of waste discharge requirements. The requirements shall include specific discharge limits sufficient to satisfy the load allocations and waste load allocations, and shall also include an adequate margin of safety that reflects any lack of knowledge about pollutant sources and attainment of water quality standards and policies. The regional boards shall periodically revise such limits.

(b) If the water quality standards for any toxic pollutant are not met for any marine bay, estuarine, or ocean waters, and if the regional boards have not implemented the total maximum daily loads, load allocations, and waste load allocations within the required deadlines, then the regional boards shall be prohibited from issuing or amending any waste discharge requirement that increases the discharge of that pollutant into any such water.

13397.8. The state board shall require each coastal county to develop and submit, by January 1, 1994, for state board approval a comprehensive stormwater management and control plan for existing and new development. The plan shall include implementation, funding and enforcement components designed to minimize runoff to bay, estuarine and ocean waters.

13398. (a) On and after January 1, 1992, a permittee shall submit a pollution prevention audit for review by the appropriate regional board prior to the issuance or renewal of:

(1) Any local waste water discharge permit to an industrial user discharging 25,000 gallons or more daily into a publicly owned treatment works;

(2) Such permits for users with a lesser discharge as required by the State Board or a regional board; or

(3) A permit issued pursuant to Chapter 5.5 of the Water Code, except one

issued to a publicly owned treatment works.

(b) The board shall, in consultation with other appropriate agencies, determine whether the audit contains the information required by this Section and whether it demonstrates by clear and convincing evidence that a reasonable effort is being made to prevent pollution, and the board shall require any necessary revisions.

(c) Progress towards implementation of the audit shall be an enforceable condition of any permit specified in subdivision (a).

(d) Each such audit shall:

(1) Identify all routinely discharged pollutants suspected of contributing to water quality degradation, standards violations, or adverse impacts on beneficial uses, and all in-plant activities, processes or operations which are the sources thereof; and

(2) Include for each such pollutant all of the following:

(A) An estimate of the mass quantity discharged from each source identified in (d)(1) and the amount entering and exiting each treatment unit within the plant;

(B) An evaluation of the pollution prevention measures available and in-plant recycling and the degree to which each will prevent pollution and is technically feasible and economically practicable;

(C) Based thereon, a specification of the measures that will be implemented by the discharger, and a factual showing, based on clear and convincing evidence, why any available measure was not implemented; and

(D) A schedule for implementation.

(e) For purposes of this Section, "pollution prevention measures" means input changes, product reformulation, process operations improvements, process equipment improvements, and in-process recycling.

(f) The regional board and any other agency reviewing such an audit shall protect from public disclosure any audit information which is a trade secret within the meaning of Section 6254.7(d) of the Government Code, providing that (1) a claim of confidentiality is made at the time the audit is submitted and (2) accepting the claim of confidentiality would not be inconsistent with the requirements for state programs or publicly owned treatment works programs implementing the federal Clean Water Act or acts which amend or supplement that Act.

13398.5. Publicly owned treatment works shall establish technical assistance programs to assist their industrial dischargers that discharge less than 25,000 gallons daily, in the development of pollution prevention audits consistent with the requirements of Section 13398. Publicly owned treatment works may revise their industrial discharge fees to fund such programs.

13399. The state board shall adjust and increase its schedule of permit fees applicable to all direct and indirect industrial and commercial dischargers, which are assessed and collected annually. The schedule of fees, as adjusted, shall be increased in an amount sufficient to fund the responsibilities of the board and regional boards under this Chapter and the responsibilities of the Department of Health Services pursuant to Article 10.1 of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, shall create incentives to reduce pollutant discharge, and shall be based on the total number of dischargers assessed fees, the relative amount and toxicity of pollutants discharged, and such other factors that the Board finds necessary; provided, however, that the increase in the amount of fees required by this Section shall not exceed two million dollars.

SECTION 27. Article 10.1 is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 10.1. Marine Resources and Human Health Standards

427.10. The State Department of Health Services shall take all necessary actions to identify threats to public health from contaminated fish, and from waters that pose a public health threat to swimmers or beach users, and shall take all necessary steps to warn and protect the public from such threats to public health.

427.11. (a) By December 31, 1991, the Director shall adopt, by regulation, based on clear and convincing evidence, health based standards for poisonous or deleterious substances, as defined in Section 26520, including, but not limited to, aldrin, dieldrin, benzine hexachloride, chlordane, DDT, endrin, heptachlor and heptachlor epoxide, PCB's, heavy metals, mercury, dioxins, copper, lead, zinc, toxaphene, and bacterial and viral contaminants, in fish and shellfish, and other marine life used for food, in accordance with the standards specified for pesticides in Section 26906(b). If, however, the presence of pervasive, unavoidable environmental contaminants exceeds those standards, the consequences of the application of those standards on the availability of an adequate, wholesome, and economical marine food supply shall be considered, and those standards shall be modified accordingly; provided that, this exception shall be strictly construed to protect the public health, while recognizing the uncontrollable nature of the presence of those contaminants.

(b) The Department shall, in cooperation with the Department of Fish and Game, exercise all powers available under Division 21 of this Code, and shall take all appropriate actions to prevent human consumption of fish containing substances in excess of the standards established by subsection (a), including the closure of specific areas or the prohibition of the taking of species within specific areas in sport or commercial fishing.

(c) The standards adopted pursuant to subdivision (a) shall be valid for no longer than seven years from the date of adoption. All those standards shall be reviewed by the Director five years following the date of adoption to determine if there has been a reduction, or increase, in the persistence or pervasiveness of each environmental contaminant. All standards shall be revised accordingly. Proposed regulations revising or continuing the standards shall be promulgated six months prior to the expiration date of any applicable standards. Each revision or continuation of a standard shall be supported by clear and convincing evidence.

427.12. (a) By January 1, 1992, the Department, in cooperation with the State Water Resources Control Board, shall develop and adopt safe statewide water quality standards for swimmers and beach users for marine bay, estuarine, and coastal waters utilizing both coliform bacterium and enterococci bacterium as indicators. In developing standards, the Department shall also consider the protection of children and the risks associated with viruses.

(b) Any body of water found to exceed such standards shall, in addition to the requirements of Section 427.5, immediately be posted with a public health warning by the public health official having jurisdiction over such area. The area shall remain posted until such time as the standard is complied with.

(c) If any body of water exceeds these standards for thirty (30) or more days per year, the public health official having jurisdiction over such area shall post a permanent health warning notifying the public of the chronic contamination. The public health official shall report chronic contamination postings to the regional water quality control board in whose jurisdiction the body of water is located. The warnings may be removed only when the body of water experiences less than thirty (30) days per year of chronic contamination.

427.13. Nothing in this Article shall be construed to remove or diminish the obligations of any person under Chapter 6.6 of Division 20 with regard to any substance to which this Article applies.

TITLE SIX

SECTION 28. Chapter 3.5 is added to Title 2 of the Government Code, to read:

CHAPTER 3.5. ENVIRONMENTAL ADVOCATE

12260. (a) The Office of the Environmental Advocate is hereby created. There is in state government an Environmental Advocate, who shall administer the Office of the Environmental Advocate. The Environmental Advocate shall be elected in the General Election of 1992 in the same manner as the Governor, for a term of two years, and thereafter for a term of four years.

(b) The Office of the Environmental Advocate shall have all the proper powers of a Department of the executive branch.

(c) The Environmental Advocate shall advocate the proper implementation of the Environmental Protection Act of 1990, and the full and complete enforcement of all the laws of the State of California relating to environmental protection and public health. The Environmental Advocate shall conduct oversight investigations, studies and any other analyses appropriate to ensure compliance with such laws. The Environmental Advocate shall also recommend to private parties, the Governor, the Legislature, the United States Congress and all appropriate agencies policies and actions to ensure environmental protection and public health.

(d) The California Council on Environmental Quality is hereby created, as part of the Office of the Environmental Advocate. The Governor shall appoint six members to the Council, subject to Senate confirmation, each for a term ending January 1, 1993, and the Director of the Department of Health Services shall serve as chairperson until that date. Upon election of the Environmental Advocate, the Advocate shall appoint six members to the Council, subject to Senate confirmation, for two year terms, and the Advocate shall serve as chairperson. Each member of the Council shall have significant expertise on questions of environmental protection and public health, and the Council shall include representatives of the University of California and the California State Universities. Each member shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of his or her duties to the extent that reimbursement is not otherwise provided by another public agency or agencies, and shall also receive one hundred dollars ($100) for each full day of attending meetings of the Council. Each member of the Council shall be subject to Chapter 7 of Title 9 of the Government Code.

(e) The Council shall issue periodic reports on the state of the environment and shall evaluate the state's progress towards meeting the requirements of the Environmental Protection Act of 1990.

(f) The Council shall also:

(1) Administer a competitive grants program for applied research and extension on alternatives to pesticides in agriculture, including interdisciplinary projects on alternative farming systems, methods, processes and technologies;

(2) Administer a competitive grants program for applied research on development of alternatives and other methods for compliance with Titles 4 and 5 of the Environmental Protection Act of 1990, and for methods of source reduction of toxic chemicals in the State.

(g) All public agencies of the State of California shall cooperate with the Environmental Advocate and shall provide information to the Environmental Advocate upon request necessary to carry out his or her duties.

(h) The Legislature may assign additional responsibilities to the Environmental Advocate, consistent with this Section. The Governor and Legislature shall appropriate funds and provide personnel to the Office of the Environmental Advocate sufficient for the Environmental Advocate to meet the requirements of this Section.

(i) The Advocate, in his or her name, is authorized to bring or intervene in any legal or other proceeding to ensure compliance with the Environmental Protection Act of 1990 or other laws enacted to protect the environment and public health. Before undertaking any such action, the Advocate shall initiate all appropriate means to resolve the matter informally, by conferring with all the affected parties. To the extent the Attorney General also has the authority to take such action, the Advocate shall give sixty (60) days notice of the proposed action, and may proceed thereafter only if the Attorney General declines to proceed. If the Attorney General elects to initiate, or intervene in, the proposed proceeding, the Advocate may thereafter intervene therein, as a matter of right. However, the requirement for a sixty (60) day notice shall be inapplicable in situations where earlier action is necessary to achieve compliance, but in all such cases the Advocate shall confer with the Attorney General prior to filing.

(j) The salary of the Environmental Advocate shall be as specified and determined by Government Code Section 11552.5.

(k) Notwithstanding Section 13340 of the Government Code, the sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated from the

General Fund to the Office of the Environmental Advocate for operations during fiscal year 1992–1993.

(l) Notwithstanding Section 13340 of the Government Code, the sum of forty million dollars ($40,000,000) is continuously appropriated from the General Fund to the Office of the Environmental Advocate, without regard to fiscal years, for the grants programs specified in subdivision (f), to be allocated equally between the purposes specified in subdivision (f)(1) and those specified in subdivision (f)(2). Until the Environmental Advocate is elected, no more than twenty five percent (25%) of such grant funds may be awarded.

TITLE SEVEN

SECTION 29. Division 13.2 is added to the Public Resources Code, to read:

DIVISION 13.2. ENFORCEMENT OF THE ENVIRONMENTAL PROTECTION ACT OF 1990

21180. (a) In addition to any other remedy available at law or in equity, any provision of the Environmental Protection Act of 1990 that requires or forbids a private party to take or refrain from action directly affecting the environment or human health may be enforced pursuant to this section. Any person, including any governmental agency, who has violated, is violating, or is threatening to violate any such provision may be enjoined, and a civil penalty may be imposed, in any court of competent jurisdiction.

(b) An action pursuant to this section may be brought by the Attorney General in the name of the People of the State of California, or by any district attorney, or by any city attorney of a city or city and county having a population in excess of 750,000, or with the consent of the district attorney by any city attorney or city prosecutor.

(c) An action pursuant to this section may be brought by any person acting in the public interest if: (1) the action is commenced more than sixty days after the person has given written notice of the violation which is the subject of the action to the Attorney General and the district attorney and any city attorney in whose jurisdiction the violation is alleged to occur, and to the alleged violator; and (2) none of such public officials has commenced and is diligently prosecuting an action against such violation. The limitations specified in this subsection do not apply to an action brought against a governmental agency or official.

(d) If a public official undertakes a prosecution pursuant to the written notice described in subdivision (c)(1), before the noticing party brings an action under subdivision (c), the person who gave the notice shall be permitted to intervene in the action on such terms as the court finds appropriate.

(e) The Legislature shall establish appropriate penalties, civil and criminal, for violations of the provisions of the Act for which a penalty is not specified. These penalties need not be uniform. These penalties shall provide that in any civil action brought pursuant to subdivision (c) any prevailing plaintiff and intervenor shall be entitled to share in an appropriate portion of any civil penalty imposed, as well as appropriate attorney's fees authorized by any other provision of law. An intervenor may receive attorney's fees upon a finding by the court that the efforts of the intervenor substantially assisted the court in reaching a just resolution of the case. In such event, the court shall divide the portion of civil penalties awarded, and shall award attorney's fees, taking into account the respective contributions of the parties to the success of the action and the need for intervention.

21181. All laws and regulations of this State designed to protect the food supply or environment, including this Act, shall be liberally construed to achieve those purposes.

TITLE EIGHT

SECTION 30. Governor's Responsibility

The Governor is accountable to the People of the State of California for the complete, timely and effective implementation of this Act. The Governor shall therefore annually report to the People on the status of implementation, beginning October 15, 1991.

TITLE NINE

SECTION 31. Technical Matters

(a) If any provision of this Act, or the application of that provision to any person or circumstances, is held invalid, the remainder of this Act, to the maximum extent it can be given effect, or the application of that provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Act are severable.

(b) This Act shall be liberally construed and applied in order to fully promote its underlying purposes, so that if more than one construction of a particular provision is possible, the one which more fully accomplishes the purposes of this Act shall be applicable.

(c) No provision of this Act shall be amended by the Legislature, except to further its purposes by a statute passed by each house by roll call vote entered in the journal with two-thirds of each membership concurring, if at least fourteen days prior to passage in each house the bill is in its final form, or by a statute that becomes effective only when approved by the electorate.

(d) Any regulation adopted by an agency, department or official charged with enforcing any provision of this Act is not subject to Article 6 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Any such regulation shall include a statement as to the basis upon which it is predicated.

(e) All references to statutes or regulations in this Act are to the text thereof in effect October 10, 1989, unless changes to those statutes or regulations further the purpose of this Act. In that event, this Act shall be interpreted to refer to the amended statute or regulation.

(f) Nothing in this Act shall diminish any legal obligation otherwise imposed by common law, statute or regulation, nor enlarge any defense in any action to enforce that legal obligation. Any penalties or sanctions imposed under this Act shall be in addition to any penalties or sanctions otherwise prescribed by law.

(g) For purposes of this Act, "person" shall have the same meaning as in Section 26024 of the Health and Safety Code, and shall also include the United States, and its agencies and officials to the extent constitutionally permissible.

(h) (1) Any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision, including a failure to act, of any public agency, made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination facts is vested in the agency, on the grounds of noncompliance with the provisions of this Act, shall be in accordance with Section 1094.5 of the Code of Civil Procedure. In any such action, the court shall not exercise its independent judgment on the evidence, but shall only determine whether the act or decision is supported by substantial evidence in light of the whole record.

(2) In an action other than one under subdivision (1), the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

Proposition 129: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending, repealing, and adding sections thereto, amends, repeals, and adds sections to various codes; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

TITLE I.

PURPOSE

SECTION 1. This act shall be known as the Comprehensive Crime Reduction and Drug Control Act of 1990.

SECTION 2. We, the People of the State of California, find and declare:

(a) As Californians, we have the inalienable right to be free from crime, to be secure in our homes, to be safe on our streets, and to be protected in our schools.

(b) Government has failed to assure our right to be free from crime.

(1) Too few criminals are identified and apprehended.

(2) Those who are apprehended are accorded rights by our courts and by our state Legislature that prevent administration of swift and sure justice, that have unnecessarily expanded the rights of accused criminals far beyond that which is required by the United States Constitution, that have unnecessarily added to the costs of criminal cases, that have diverted the judicial process from its function as a quest for truth, and that have too often ignored the rights of crime victims. Comprehensive reforms are needed in order to restore balance and fairness to our criminal justice system.

(3) Those who are convicted too often evade the full measure of punishment the law was intended to provide because California suffers from an acute shortage of prison capacity, often resulting in prisoners being released before serving their full terms, frequently to return to their criminal enterprises upon release.

(c) Certainty and swiftness of punishment deter crime:

(1) Delays in apprehension and the prospect of evading apprehension altogether diminish the deterrent effect of the criminal law.

(2) Convoluted procedures that obstruct the pursuit of truth have protracted criminal trials, needlessly delaying punishment and impeding deterrence.

(3) Inadequate prison and jail facilities lead to early offender release and the prospect of their evading the full punishment of the law.

(4) The death penalty is a deterrent to murder, but protracted delays in capital trials impede its effectiveness as a deterrent.

(d) Much of our crime problem can be traced to illicit drugs, particularly cocaine and, most recently, crack cocaine. The widespread use of such drugs has conferred vast wealth on the dealers, has contributed to the dramatic expansion of California's street gangs, and has attracted international drug traffickers who increasingly base their smuggling and national distribution in California. The lucrative narcotics trade in turn spawns a wide range of crimes—ranging from drug-law violations to violent crimes of all kinds. Drugs are California's largest and fastest-growing crime problem. They threaten to overwhelm the entire criminal justice system, from police to courts to prisons. Drug-related crime is a problem of such size and scope that it requires a comprehensive solution.

(e) Increased efforts to prevent children from using drugs, and to treat drug addicts, can reduce the demand for drugs, thereby diminishing the profitability of the drug trade and the threat of drug-related crime.

(f) The federal government has failed to acknowledge and respond to the acute dangers California faces because of the failure to secure our international borders and the presence here of traffickers, driven from other states by federal law enforcement programs. By failing to allocate the resources it has committed to other states, the federal government has increased the concentration of drug traffickers here.

(g) Increased law-enforcement resources in California applied in a coordinated program of drug-interdiction can reduce the volume of drugs poisoning our society and can increase the apprehension of the traffickers.

(h) Merely increasing the rate of apprehension of criminals would clog already gridlocked courts. Merely increasing the rate of conviction of criminals is of little value without prisons in which to hold them. A coordinated program to improve law enforcement, the administration of justice, and correctional programs is necessary to deal effectively with the surge in drug-related crime and violent crimes of all kinds.

(i) Additional state revenues are necessary to fund the increased law enforcement, treatment, and crime prevention efforts, which, together with speedier administration of justice and increased prison capacity, can make Californians safer from crime and substance abuse. Revenues sufficient for this purpose can be raised by conforming California corporate tax law to federal law, and thereby closing loopholes in California law.

SECTION 3. The People adopt this act for the following purposes:

(a) To provide a coordinated program that will

(1) improve law enforcement and increase apprehension of criminal offenders,

(2) improve the administration of criminal justice, to assure that those accused of crimes are dealt with fairly and swiftly, and

(3) provide the capacity to incarcerate those who commit crimes for the full measure of their punishment;

(b) To reform the law as developed in numerous California Supreme Court decisions and as set forth in the statutes of this state in order to restore balance to our criminal justice system, to create a system in which justice is swift and fair, and to create a system in which violent criminals receive just punishment, in which crime victims and witnesses are treated with care and respect, and in which society as a whole can be free from the fear of crime in our homes, neighborhoods, and schools; and

(c) To provide special programs to deal with those who are responsible for a major share of the crime afflicting us all, those who use and traffic in illicit drugs.

TITLE II.

INCREASED DRUG INTERDICTION AND CRIMINAL APPREHENSION

SECTION 4. Article 7.7 (commencing with Section 16419) is added to Chapter 2 of Part 2 of Division 2 of Title 2 of the Government Code, to read:

Article 7.7. California Anti-Drug Superfund

16419. The California Anti-Drug Superfund is hereby created in the State Treasury. All moneys in the fund shall be invested pursuant to Sections 16470 through 16474, inclusive, of the Government Code.

16419.1. (a) The Controller shall transfer from the General Fund to the California Anti-Drug Superfund an amount equal to one hundred two million dollars ($102,000,000) by January 1, 1991, four hundred fifty-nine million dollars ($459,000,000) by July 15, 1991, four hundred seven million dollars ($407,000,000) by January 1, 1993, and one hundred eighty-three million dollars ($183,000,000) by January 1, 1994.

(b) (1) For each fiscal year commencing on or after July 1, 1994, the Franchise Tax Board shall make an estimate of the amount of additional revenues that will be generated in that fiscal year by the act adding this article. This estimate shall be transmitted to the Controller prior to the commencement of the fiscal year to which it relates.

(2) By July 15, 1994, and by July 15 of each subsequent fiscal year, the Controller shall transfer from the General Fund to the California Anti-Drug Superfund an amount equal to the amount determined under paragraph (1) as additional revenues for that fiscal year.

16419.2. Notwithstanding Section 13340, all money in the California Anti-Drug Superfund is hereby continuously appropriated without regard to fiscal years as follows:

(a) To the Department of Justice to implement the CrackDown Task Force Program specified in Section 15029 of the Government Code, or to match any available federal funds which are to be expended for similar purposes, as follows:

(1) Twenty-two million dollars ($22,000,000) by July 15, 1991.

(2) Twenty-two million eight hundred eighty thousand dollars ($22,880,000) by July 15, 1992.

(3) Twenty-three million seven hundred ninety-five thousand dollars ($23,795,000) by July 15, 1993.

(4) Twenty-four million seven hundred forty-seven thousand dollars ($24,747,000) by July 15, 1994.

(5) Twenty-five million seven hundred thirty-seven thousand dollars ($25,737,000) by July 15, 1995.

(6) Twenty-six million seven hundred sixty-six thousand dollars ($26,766,000) by July 15, 1996.

(7) Twenty-seven million eight hundred thirty-seven thousand dollars ($27,837,000) by July 15, 1997.

(b) To the Controller for allocation to all county sheriffs' departments and city police departments in this state, to be used only for law enforcement and crime prevention activities related to the abuse of controlled substances, to provide added protection for schools and neighborhoods besieged by gangs and drugs, or to match any available federal funds which are to be expended for similar purposes, as determined to be necessary by the sheriffs or chiefs of police of those counties or cities, as follows:

(1) Sixty million dollars ($60,000,000) by January 1, 1991.

(2) One hundred twenty million dollars ($120,000,000) by July 15, 1991.

(3) One hundred twenty-four million eight hundred thousand dollars ($124,800,000) by July 15, 1992.

(4) One hundred twenty-nine million seven hundred ninety-two thousand dollars ($129,792,000) by July 15, 1993.

(5) One hundred thirty-four million nine hundred eighty-four thousand dollars ($134,984,000) by July 15, 1994.

(6) One hundred forty million three hundred eighty-three thousand dollars ($140,383,000) by July 15, 1995.

(7) One hundred forty-five million nine hundred ninety-eight thousand dollars ($145,998,000) by July 15, 1996.

(8) One hundred fifty-one million eight hundred thirty-eight thousand dollars ($151,838,000) by July 15, 1997.

(9) (A) All funds specified in this subdivision (b) shall be distributed to all participating county sheriffs' departments and city police departments based upon the most recent estimates of the population of the departments' service areas, as determined in the manner specified by Section 11005 of the Revenue and Taxation Code. For this purpose, except as specified in subparagraph (B), the estimate of the population of counties shall not include the population of city police department service areas therein.

(B) For a charter city and county, the total annual funds specified in subparagraph (A) which are available to a charter city and county shall be divided equally between the county sheriff's department and the city police department.

(c) To the Controller for allocation to all county boards of supervisors in this state, to be used only for controlled substance treatment and substance-abuse prevention programs (including treatment and substance-abuse prevention in schools), enhancement of probation supervision of offenders with drug-related problems, prosecution and processing of controlled substance offenders, or to match any available federal funds which are to be expended for similar purposes, as determined to be necessary by those county boards of supervisors, as follows:

(1) Forty million dollars ($40,000,000) by January 1, 1991.

(2) Eighty million dollars ($80,000,000) by July 15, 1991.

(3) Eighty-three million, two hundred thousand dollars ($83,200,000) by July 15, 1992.

(4) Eighty-six million, five hundred twenty-eight thousand dollars ($86,528,000) by July 15, 1993.

(5) Eighty-nine million, nine hundred eighty-nine thousand dollars ($89,989,000) by July 15, 1994.

(6) Ninety-three million, five hundred eighty-nine thousand dollars ($93,589,000) by July 15, 1995.

(7) Ninety-seven million, three hundred thirty-two thousand dollars ($97,332,000) by July 15, 1996.

(8) One hundred one million, two hundred twenty-six thousand dollars ($101,226,000) by July 15, 1997.

(9) All funds specified in this subdivision (c) shall be distributed to all participating county boards of supervisors based upon the most recent estimates of the population of the participating counties as determined in the manner specified by Section 11005 of the Revenue and Taxation Code.

(d) To the Controller and the Franchise Tax Board in an amount equal to their costs incurred in connection with their duties under this article as those costs are determined by the Department of Finance.

(e) The funds provided under this article shall not supplant existing funds for substance abuse programs.

16419.3. (a) On January 1, 1992, and on January 1 of each year thereafter, all county sheriff's departments, city police departments, and county boards of supervisors which received funds in the immediately preceding fiscal year under this article shall provide a report to the Auditor General disclosing how those funds were expended.

(b) Based on the reports provided under subdivision (a), and any other relevant information, the Auditor General shall make a determination as to whether the funds received under this article were expended for proper purposes or whether those funds supplanted other funds for substance abuse programs. On or before June 1, 1992, and on or before June 1 of each subsequent year, the Auditor General shall report its findings to the Legislature and the Controller.

(c) Based upon the report submitted under subdivision (b), for years beginning on or after July 1, 1992, the Controller shall, for one year, withhold any funds pursuant to this article from those county sheriffs' departments, city police departments, or county boards of supervisors found in the report to have, in the preceding year, used funds provided under this article to supplant other funds for substance abuse purposes, or otherwise did not use the funds for the purposes of this article.

16419.4. The Joint Legislative Audit Committee shall evaluate the California Anti-Drug Superfund program provided by this article and make a report of that evaluation to the Legislature before January 1, 1998. The report shall include, among other things, the following:

(a) An accounting of how the funds were expended by local law enforcement agencies and county boards of supervisors.

(b) The effect of the program on controlled substance-related arrests, criminal activity, and prosecutions.

(c) The effect of the program on controlled substance abuse and treatment.

16419.5. Should the Controller determine that the funds available in the California Anti-Drug Superfund will not be sufficient to permit a given year's allocations in the amounts provided in Section 16419.2, the Controller shall reduce the allocations to the Department of Justice, county sheriffs' departments, city police departments, and county boards of supervisors by an equal percentage.

16419.6. The Controller may promulgate rules and regulations he or she deems necessary to carry out the provisions of this article.

16419.7. This article shall remain in effect only until June 30, 1998, and as of that date is repealed. Any funds remaining in the California Anti-Drug Superfund on that date are hereby appropriated to the Controller for allocation to the Department of Justice, county sheriffs' departments, city police departments, and county boards of supervisors in the same proportion as provided in Section 16419.2.

SECTION 5. Section 9.5 is added to Article XIII B of the Constitution, to read:

SEC. 9.5. "Appropriations subject to limitation" for each entity of government do not include appropriations from the California Anti-Drug Superfund. No adjustment in the appropriation limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Anti-Drug Superfund.

This section shall remain in effect only until June 30, 1998, and as of that date is repealed.

TITLE III.

CRIMINAL JUSTICE REFORM

SECTION 6. Section 14.1 of Article I of the California Constitution, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

SEC. 14.1. If a felony is prosecuted by indictment, there shall be no postindictment preliminary hearing.

SECTION 7. Section 24 of Article I of the California Constitution, as amended by Proposition 115 at the June 5, 1990 Primary Election, is further amended to read:

SEC. 24. Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution.

In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy *insofar as it relates to the admissibility of evidence*, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the imposition of cruel or unusual punishment, shall be construed by the courts of this state in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States. *Nothing in this section shall be construed to abridge the right to privacy as it affects reproductive choice.*

This declaration of rights may not be construed to impair or deny others retained by the people.

SECTION 8. Section 29 of Article I of the California Constitution, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

SEC. 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial.

SECTION 9. Section 30 of Article I of the California Constitution, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

SEC. 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.

(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.

(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process.

SECTION 10. Section 223 of the Code of Civil Procedure is repealed.

~~223. In criminal cases:~~

~~(a) It shall be the duty of the trial court to examine the prospective jurors to select a fair and impartial jury. Except as provided in Section 223.5, the trial court shall permit reasonable examination of prospective jurors by counsel for the people and for the defendant, such examination to be conducted orally and directly by counsel.~~

~~(b) In each case it shall be the duty of the trial judge to provide for a voir dire process as speedy, focused, and informative as possible, and to protect prospective jurors from undue harassment and embarrassment and from inordinately extensive, repetitive, or unfocused examinations.~~

~~(c) In discharging its duties, the court shall have discretion and control with respect to the form and subject matter and duration of voir dire examination. In exercising that discretion and control, the trial judge shall be guided by, among other criteria, the following:~~

~~(1) The nature of the charges and the potential consequences of a conviction.~~

~~(2) Any unique or complex elements, legal or factual, in the case.~~

~~(3) The individual responses or conduct of jurors which may reveal attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.~~

~~(4) The attorneys' need, under the circumstances, for information on which to exercise peremptory challenges intelligently.~~

~~(d) The trial court shall not permit questions which the trial court concludes would, as their sole purpose, do any of the following:~~

~~(1) Educate the jury panel to the particular facts of the case.~~

~~(2) Compel the jurors to commit themselves to vote in a particular way.~~

~~(3) Prejudice the jury for or against any party.~~

~~(4) Argue the case.~~

~~(5) Indoctrinate the jury.~~

~~(6) Instruct the jury in a matter of law.~~

~~(7) Attempt to accomplish any other improper purpose.~~

~~(e) The trial court shall require that questions be phrased by counsel in a neutral and nonargumentative form.~~

SECTION 11. Section 223 of the Code of Civil Procedure, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

223. In a criminal case, the court shall conduct the examination of prospective jurors. However, the court may permit the parties, upon a showing of good cause, to supplement the examination by such further inquiry as it deems proper, or shall itself submit to the prospective jurors upon such a showing, such additional questions by the parties as it deems proper. Voir dire of any prospective jurors shall, where practicable, occur in the presence of the other jurors in all criminal cases, including death penalty cases.

Examination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause.

The trial court's exercise of its discretion in the manner in which voir dire is conducted shall not cause any conviction to be reversed unless the exercise of that discretion has resulted in a miscarriage of justice, as specified in Section 13 of Article VI of the California Constitution.

SECTION 12. Section 223.5 of the Code of Civil Procedure is repealed.

~~223.5. (a) As a pilot project applicable solely to criminal cases in the superior courts in Fresno and Santa Cruz Counties during the period July 1, 1988, to June 30, 1991, inclusive, all questions designed solely for assisting in the intelligent exercise of the right to peremptory challenge and not applicable to the determination of implied or actual bias, shall be propounded by the court. If such a question is requested by the prosecution or by counsel for the defense and is one of the standardized questions developed by the Task Force on Voir Dire, the court shall propound the question unless the court determines that the question is clearly inappropriate. If a nonstandardized question is proposed by the prosecution or by counsel for the defense, the court may propound the question in its discretion.~~

~~(b) The Task Force on Voir Dire shall consist of eight members who shall serve without compensation, two of whom shall be appointed by the Judicial Council, two by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. All appointees shall have been members of the State Bar for at least five years prior to their appointment. The Judicial Council may provide staff to assist the task force.~~

~~All appointments to the Task Force on Voir Dire shall be made on or before March 1, 1988. The task force shall submit to the pilot project counties a list of standardized questions which meet the purposes of subdivision (a) on or before July 1, 1988.~~

~~(c) Notwithstanding the provisions of Section 206, the Judicial Council and any other bona fide research or research organization shall be permitted access to any data regarding the conduct or evaluation of the pilot project. On or before January 1, 1992, the Judicial Council shall report to the Legislature on the effects of the pilot project on the efficiency in jury selection and on any effect on the conviction rate for particular crimes compared to a similar prior period in each pilot project county.~~

SECTION 13. Section 1203.1 of the Evidence Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

1203.1. Section 1203 is not applicable if the hearsay statement is offered at a preliminary examination, as provided in Section 872 of the Penal Code.

SECTION 14. Section 189 of the Penal Code, as amended by Proposition 115 at the June 5, 1990 Primary Election is further amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 286, 288, 288a, or 289, is murder of the first degree; and all other kinds of murders are of the second degree.

As used in this section, "destructive device" shall mean any destructive device as defined in Section 12301, and "explosive" shall mean any explosive as defined in Section 12000 of the Health and Safety Code.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or *her* act.

SECTION 15. Section 190.2 of the Penal Code, as amended by Propositions 114 and 115 at the June 5, 1990 Primary Election, is further amended to read:

190.2. (a) The penalty for a defendant found guilty of murder in the first degree shall be death or confinement in state prison for a term of life without the possibility of parole in any case in which one or more of the following special circumstances has been found under Section 190.4, to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was previously convicted of murder in the first degree or second degree. For the purpose of this paragraph an offense committed in another jurisdiction which if committed in California would be punishable as first or second degree murder shall be deemed murder in the first or second degree.

(3) The defendant has in this proceeding been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden or concealed in any place, area, dwelling, building or structure, and the defendant knew or reasonably should have known that his or her act or acts would create a great risk of death to a human being or human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest or to perfect, or attempt to perfect an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or cause to be mailed or delivered and the defendant knew or reasonably should have known that his or her act or acts would create a great risk of death to a human being or human beings.

(7) The victim was a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11 or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew or reasonably should have known that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer as defined in the above enumerated sections of the Penal Code, or a former peace officer under any of such sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew or reasonably should have known that the victim was a federal law enforcement officer or agent, engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew or reasonably should have known that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission, or

attempted commission of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this state or any other state, or a federal prosecutor's office and the murder was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state or federal system in the State of California or in any other state of the United States and the murder was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, a local or state government of California, or of any local or state government of any other state in the United States and the killing was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As utilized in this section, the phrase especially heinous, atrocious or cruel manifesting exceptional depravity means a conscienceless, or pitiless crime which is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim while lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality or country of origin.

(17) The murder was committed while the defendant was engaged in or was an accomplice in the commission of, attempted commission of, or the immediate flight after committing or attempting to commit the following felonies:

(i) Robbery in violation of Section 211 or 212.5.

(ii) Kidnapping in violation of Section 207 or 209.

(iii) Rape in violation of Section 261.

(iv) Sodomy in violation of Section 286.

(v) The performance of a lewd or lascivious act upon person of a child under the age of 14 in violation of Section 288.

(vi) Oral copulation in violation of Section 288a.

(vii) Burglary in the first or second degree in violation of Section 460.

(viii) Arson in violation of subdivision (b) of Section 451.

(ix) Train wrecking in violation of Section 219.

(x) Mayhem in violation of Section 203.

(xi) Rape by instrument in violation of Section 289.

(18) The murder was intentional and involved the infliction of torture.

(19) The defendant intentionally killed the victim by the administration of poison.

(b) Unless an intent to kill is specifically required under subdivision (a) for a special circumstance enumerated therein, an actual killer as to whom such special circumstance has been found to be true under Section 190.4 need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer death or confinement in state prison for a term of life without the possibility of parole.

(c) Every person not the actual killer who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall suffer death or confinement in state prison for a term of life without the possibility of parole, in any case in which one or more of the special circumstances enumerated in subdivision (a) of this section has been found to be true under Section 190.4.

(d) Notwithstanding subdivision (c), every person not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a), which felony results in the death of some person or persons, who is found guilty of murder in the first degree therefor, shall suffer death or confinement in state prison for life without the possibility of parole, in any case in which a special circumstance enumerated in paragraph (17) of subdivision (a) of this section has been found to be true under Section 190.4.

(e) The penalty shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

SECTION 16. Section 190.41 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

190.41. Notwithstanding Section 190.4 or any other provision of law, the corpus delicti of a felony-based special circumstance enumerated in paragraph (17) of subdivision (a) of Section 190.2 need not be proved independently of a defendant's extrajudicial statement.

SECTION 17. Section 190.5 of the Penal Code, as amended by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

190.5. (a) Notwithstanding any other provision of law, the death penalty shall not be imposed upon any person who is under the age of 18 at the time of the commission of the crime. The burden of proof as to the age of such person shall be upon the defendant.

(b) The penalty for a defendant found guilty of murder in the first degree, in any case in which one or more special circumstances enumerated in Section 190.2 or 190.25 has been found to be true under Section 190.4, who was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, shall be confinement in the state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life.

(c) The trier of fact shall determine the existence of any special circumstance pursuant to the procedure set forth in Section 190.4.

SECTION 18. Section 206 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

206. Every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury as defined in Section 12022.7 upon the person of another, is guilty of torture.

The crime of torture does not require any proof that the victim suffered pain.

SECTION 19. Section 206.1 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

206.1. Torture is punishable by imprisonment in the state prison for a term of life.

SECTION 20. Section 859 of the Penal Code, as amended by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

859. When the defendant is charged with the commission of a public offense over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable, he or she shall, without unnecessary delay, be taken before a magistrate of the court in which the complaint is on file. The magistrate shall immediately deliver to the defendant a copy of the complaint, inform the defendant that he or she has the right to have the assistance of counsel, ask the defendant if he or she desires the assistance of counsel, and allow the defendant reasonable time to send for counsel. However, in a capital case, the court shall inform the defendant that the defendant must be represented in court by counsel at all stages of the preliminary and trial proceedings and that the representation will be at the defendant's expense if the defendant is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether the defendant desires to employ counsel of the defendant's choice or to have counsel assigned for him or her, and allow the defendant a reasonable time to send for his or her chosen or assigned counsel. The magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the judicial district in which the court is situated. The officer shall, without delay and without a fee, perform that duty. If the defendant desires and is unable to employ counsel, the court shall assign counsel to defend him or her; in a capital case, if the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to defend him or her. If it appears that the defendant may be a minor, the magistrate shall ascertain whether that is the case, and if the magistrate concludes that it is probable that the defendant is a minor, he or she shall immediately either notify the parent or guardian of the minor, by telephone or messenger, of the arrest, or appoint counsel to represent the minor.

SECTION 21. Section 866 of the Penal Code, as amended by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

866. (a) When the examination of witnesses on the part of the people is closed, any witness the defendant may produce shall be sworn and examined.

Upon the request of the prosecuting attorney, the magistrate shall require an offer of proof from the defense as to the testimony expected from the witness. The magistrate shall not permit the testimony of any defense witness unless the offer of proof discloses to the satisfaction of the magistrate, in his or her sound discretion, that the testimony of that witness, if believed, would be reasonably likely to establish an affirmative defense, negate an element of a crime charged, or impeach the testimony of a prosecution witness or the statement of a declarant testified to by a prosecution witness.

(b) It is the purpose of a preliminary examination to establish whether there exists probable cause to believe that the defendant has committed a felony. The examination shall not be used for purposes of discovery.

(c) This section shall not be construed to compel or authorize the taking of depositions of witnesses.

SECTION 22. Section 871.6 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

871.6. If in a felony case the magistrate sets the preliminary examination beyond the time specified in Section 859b, in violation of Section 859b, or continues the preliminary hearing without good cause and good cause is required by law for such a continuance, the people or the defendant may file a petition for writ of mandate or prohibition in the superior court seeking immediate appellate review of the ruling setting the hearing or granting the continuance. Such a petition shall have precedence over all other cases in the court to which the petition is assigned. If the superior court grants a peremptory writ, it shall issue the writ and a remittitur three court days after its decision becomes final as to the court if this action is necessary to prevent mootness or to prevent frustration of the relief granted, notwithstanding the rights of the parties to seek review in a court of appeal. When the superior court issues the writ and remittitur as provided in this section, the writ shall command the magistrate to proceed with the preliminary hearing without further delay, other than that reasonably necessary for the parties to obtain the attendance of their witnesses.

The court of appeal may stay or recall the issuance of the writ and remittitur. The failure of the court of appeal to stay or recall the issuance of the writ and remittitur shall not deprive the parties of any right they would otherwise have to appellate review or extraordinary relief.

SECTION 23. Section 872 of the Penal Code, as amended by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

872. (a) If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe that the defendant is guilty, the magistrate shall make or indorse on the complaint an order, signed by him or her, to the following effect: "It appearing to me that the offense in the within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe that the within named A.B. is guilty, I order that he or she be held to answer to the same."

(b) Notwithstanding Section 1200 of the Evidence Code, the finding of probable cause may be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. Any law enforcement officer testifying as to hearsay statements shall either have five years of law enforcement

experience or have completed a training course certified by the Commission on Peace Officer Standards and Training which includes training in the investigation and reporting of cases and testifying at preliminary hearings.

SECTION 24. Section 954.1 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

954.1. In cases in which two or more different offenses of the same class of crimes or offenses have been charged together in the same accusatory pleading, or where two or more accusatory pleadings charging offenses of the same class of crimes or offenses have been consolidated, evidence concerning one offense or offenses need not be admissible as to the other offense or offenses before the jointly charged offenses may be tried together before the same trier of fact.

SECTION 25. Section 987.05 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is amended to read:

987.05. In assigning defense counsel in felony cases, whether it ~~is~~ *be* the public defender or private counsel, the court shall only assign counsel who represents, on the record, that he or she will be ready to proceed with the preliminary hearing or trial, as the case may be, within the time provisions prescribed in this code for preliminary hearings and trials, except in those unusual cases where the court finds that, due to the nature of the case, counsel cannot reasonably be expected to be ready within the prescribed period if he or she were to begin preparing the case forthwith and continue to make diligent and constant efforts to be ready. In the case where the time of preparation for preliminary hearing or trial is deemed greater than the statutory time, the court shall set a reasonable time period for preparation. In making this determination, the court shall not consider counsel's convenience, counsel's calendar conflicts, or counsel's other business. The court may allow counsel a reasonable time to become familiar with the case in order to determine whether he or she can be ready. In cases where counsel, after making representations that he or she will be ready for preliminary examination or trial, and without good cause is not ready on the date set, the court may relieve counsel from the case and may impose sanctions upon counsel, including, but not limited to, finding the assigned counsel in contempt of court, imposing a fine, or denying any public funds as compensation for counsel's services. Both the prosecuting attorney and defense counsel shall have a right to present evidence and argument as to a reasonable length of time for preparation and on any reasons why counsel could not be prepared in the set time.

SECTION 26. Section 1049.5 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

1049.5. In felony cases, the court shall set a date for trial which is within 60 days of the defendant's arraignment in the superior court unless, upon a showing of good cause as prescribed in Section 1050, the court lengthens the time. If the court, after a hearing as prescribed in Section 1050, finds that there is good cause to set the date for trial beyond the 60 days, it shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

SECTION 27. Section 1050.1 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

1050.1. In any case in which two or more defendants are jointly charged in the same complaint, indictment, or information, and the court or magistrate, for good cause shown, continues the arraignment, preliminary hearing, or trial of one or more defendants, the continuance shall, upon motion of the prosecuting attorney, constitute good cause to continue the remaining defendants' cases so as to maintain joinder. The court or magistrate shall not cause jointly charged cases to be severed due to the unavailability or unpreparedness of one or more defendants unless it appears to the court or magistrate that it will be impossible for all defendants to be available and prepared within a reasonable period of time.

SECTION 28. Chapter 10 (commencing with Section 1054) of Title 6 of Part 2 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is amended to read:

CHAPTER 10. DISCOVERY

1054. This chapter shall be interpreted to give effect to all of the following purposes:

(a) To promote the ascertainment of truth in trials by requiring timely pretrial discovery.

(b) To save court time by requiring that discovery be conducted informally between and among the parties before judicial enforcement is requested.

(c) To save court time in trial and avoid the necessity for frequent interruptions and postponements.

(d) To protect victims and witnesses from danger, harassment, and undue delay of the proceedings.

(e) To provide that no discovery shall occur in criminal cases except as provided by this chapter, other express statutory provisions, or as mandated by the Constitution of the United States.

1054.1. The prosecuting attorney shall disclose to the defendant or his or her attorney all of the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

(a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.

(b) Statements of all defendants.

(c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.

(d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.

(e) Any exculpatory evidence.

(f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

1054.2. No attorney may disclose or permit to be disclosed to a defendant the address or telephone number of a victim or witness whose name is disclosed to the attorney pursuant to subdivision (a) of Section 1054.1 unless specifically permitted to do so by the court after a hearing and a showing of good cause.

1054.3. The defendant and his or her attorney shall disclose to the prosecuting attorney:

(a) The names and addresses of persons, other than the defendant, he or she intends to call as witnesses at trial, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports or statements of experts made in connection with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial.

(b) Any real evidence which the defendant intends to offer in evidence at the trial.

1054.4. Nothing in this chapter shall be construed as limiting any law enforcement or prosecuting agency from obtaining nontestimonial evidence to the extent permitted by law on the ~~effective~~ *operative* date of this section.

1054.5. (a) No order requiring discovery shall be made in criminal cases except as provided in this chapter. This chapter shall be the only means by which the defendant may compel the disclosure or production of information from prosecuting attorneys, law enforcement agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties.

(b) Before a party may seek court enforcement of any of the disclosures required by this chapter, the party shall make an informal request of opposing counsel for the desired materials and information. If within 15 days, the opposing counsel fails to provide the materials and information requested, the party may seek a court order. Upon a showing that a party has not complied with Section 1054.1 or 1054.3 and upon a showing that the moving party complied with the informal discovery procedure provided in this subdivision, a court may make any order necessary to enforce the provisions of this chapter, including, but not limited to, immediate disclosure, contempt proceedings, delaying or prohibiting the testimony of a witness or the presentation of real evidence, continuance of the matter, or any other lawful order. Further, the court may advise the jury of any failure or refusal to disclose and of any untimely disclosure.

(c) The court may prohibit the testimony of a witness pursuant to subdivision (b) only if all other sanctions have been exhausted. The court shall not dismiss a charge pursuant to subdivision (b) unless required to do so by the Constitution of the United States.

1054.6. Neither the defendant nor the prosecuting attorney is required to disclose any materials or information which are work product as defined in subdivision (c) of Section 2018 of the Code of Civil Procedure, or which are privileged pursuant to an express statutory provision, or are privileged as provided by the Constitution of the United States.

1054.7. The disclosures required under this chapter shall be made at least 30 days prior to the trial, unless good cause is shown why a disclosure should be denied, restricted, or deferred. If the material and information becomes known to, or comes into the possession of, a party within 30 days of trial, disclosure shall be made immediately, unless good cause is shown why a disclosure should be denied, restricted, or deferred. "Good cause" is limited to threats or possible danger to the safety of a victim or witness, possible loss or destruction of evidence, or possible compromise of other investigations by law enforcement.

Upon the request of any party, the court may permit a showing of good cause for the denial or regulation of disclosures, or any portion of that showing, to be made in camera. A verbatim record shall be made of any such proceeding. If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, and shall be made available to an appellate court in the event of an appeal or writ. In its discretion, the trial court may after trial and conviction, unseal any previously sealed matter.

SECTION 29. Section 1102.5 of the Penal Code is repealed.

~~1102.5. (a) Upon motion, the prosecution shall be entitled to obtain from the defendant or his or her counsel, all statements, oral or however preserved, by any defense witness other than the defendant, after that witness has testified on direct examination at trial. At the request of the defendant or his or her counsel, the court shall review the statement in camera and limit discovery to those matters within the scope of the direct testimony of the witness. As used in this section, the statement of a witness includes factual summaries, but does not include the impressions, conclusions, opinions, or legal research or theories of the defendant, his or her counsel, or agent.~~

~~(b) The prosecution shall make available to the defendant, as soon as practicable, all evidence, including the names, addresses and statements of witnesses, which was obtained or prepared as a consequence of obtaining any discovery or information pursuant to this section.~~

~~(c) Nothing in this section shall be construed to deny either to the defendant or to the people information or discovery to which either is now entitled under existing law.~~

SECTION 30. Section 1102.7 of the Penal Code is repealed.

~~1102.7. Notwithstanding any other provision of law, the prosecution shall not be required to furnish to the defendant himself or herself, but only to his or her attorney, the address or telephone number of any victim or witness absent a showing of good cause as determined by the court, unless the defendant is acting as his or her own attorney. When an address or telephone number is released to the defendant's attorney, the court shall order the defendant's attorney not to disclose the information to the defendant.~~

~~If the defendant is acting as his or her own attorney in a case involving force or violence, dangerous or deadly weapons, or witness intimidation and where there is a possibility that the defendant poses a continuing threat to the victim or witness, the court shall protect the address and telephone number of the victim or witness by providing for contact only through a court/appointed licensed~~

~~private investigator or by imposing other reasonable restrictions. When an address or telephone number is released to a court/appointed licensed private investigator, the court shall order the investigator not to disclose this information to the defendant.~~

SECTION 31. Section 1385.1 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

1385.1. Notwithstanding Section 1385 or any other provision of law, a judge shall not strike or dismiss any special circumstance which is admitted by a plea of guilty or nolo contendere or is found by a jury or court as provided in Sections 190.1 to 190.5, inclusive.

SECTION 32. Section 1430 of the Penal Code is repealed.

~~1430. The prosecuting attorney shall deliver to, or make accessible for inspection and copying by, the defendant or counsel, copies of the police, arrest, and crime reports, upon the first court appearance of counsel, or upon a determination by a magistrate that the defendant can represent himself or herself. If unavailable to the prosecuting attorney at the time of that appearance or determination, the reports shall be delivered within two calendar days. Portions of those reports containing privileged information need not be disclosed if the defendant or his or her counsel has been notified that privileged information has not been disclosed. If the charges against the defendant are dismissed prior to the time the above/mentioned documents are delivered or made accessible, the prosecuting attorney need not deliver or make accessible such documents unless otherwise so compelled by law. The court shall not dismiss a case because of the failure of the prosecuting attorney to immediately deliver copies of the reports or to make them accessible for inspection and copying.~~

SECTION 33. Section 1511 of the Penal Code, as added by Proposition 115 at the June 5, 1990 Primary Election, is reenacted to read:

1511. If in a felony case the superior court sets the trial beyond the period of time specified in Section 1049.5, in violation of Section 1049.5, or continues the hearing of any matter without good cause, and good cause is required by law for such a continuance, either party may file a petition for writ of mandate or prohibition in the court of appeal seeking immediate appellate review of the ruling setting the trial or granting the continuance. Such a petition shall have precedence over all other cases in the court to which the petition is assigned, including, but not limited to, cases that originated in the juvenile court. If the court of appeal grants a peremptory writ, it shall issue the writ and a remittitur three court days after its decision becomes final as to that court if such action is necessary to prevent mootness or to prevent frustration of the relief granted, notwithstanding the right of the parties to file a petition for review in the Supreme Court. When the court of appeal issues the writ and remittitur as provided herein, the writ shall command the superior court to proceed with the criminal case without further delay, other than that reasonably necessary for the parties to obtain the attendance of their witnesses.

The Supreme Court may stay or recall the issuance of the writ and remittitur. The Supreme Court's failure to stay or recall the issuance of the writ and remittitur shall not deprive the respondent or the real party in interest of its right to file a petition for review in the Supreme Court.

TITLE IV.
EMERGENCY CORRECTIONAL FACILITIES

SECTION 34. Chapter 17 (commencing with Section 7450) is added to Title 7 of Part 3 of the Penal Code, to read:

Article 1. General Provisions

7450. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the Emergency Correctional Facility Finance Committee created pursuant to Section 7462.

(b) "Fund" means the Emergency Correctional Facility Bond Fund created pursuant to Section 7455.

(c) The primary purpose of the facilities authorized by this title shall be to house inmates with drug abuse problems in order to provide them with (1) a drug-free environment, and (2) drug treatment programs which shall also be integrated with parole and probation supervision programs.

(d) Cost efficiency of construction and operation and effectiveness of treatment shall be of paramount concern. Facilities authorized by this section shall be constructed within the limits of the appropriation except as authorized by the Joint Prison Construction and Operations Committee of the Legislature. The facilities shall be designed and constructed using an efficient and effective low-cost design.

Article 2. Emergency Correctional Facilities

7455. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Emergency Correctional Facility Bond Fund, which is hereby created.

7456. (a) Money in the fund, up to a limit of three hundred six million dollars ($306,000,000) may be available for the acquisition and construction of state correctional facilities. For that purpose, acquisition includes the purchase of property, the lease of property for a period of not less than 20 years, and any other acquisition of property that grants a right to occupy the property for at least 20 years, and construction includes the remodeling of existing facilities.

(b) Money in the fund, up to a limit of four hundred thirty-four million dollars ($434,000,000) shall be available for the acquisition and construction of local and regional confinement and treatment facilities for the housing of prisoners who might otherwise be housed in county jails.

Article 3. Fiscal Provisions

7460. Bonds in the total amount of seven hundred forty million dollars ($740,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

7461. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

7462. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Emergency Correctional Facility Finance Committee is hereby created. For purposes of this chapter, the Emergency Correctional Facility Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Treasurer, the Director of Finance, the Director of Corrections, and the Chairperson of the Board of Corrections, or their designated representatives. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the Department of Corrections is designated the "board."

7463. The committee shall determine whether it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 7456 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

7464. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

7465. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 7466, appropriated without regard to fiscal years.

7466. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund from money received from the sale of bonds for the purpose of carrying out this chapter.

7467. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

7468. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code.

7469. The People hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SECTION 35. (a) The Department of Corrections is hereby authorized to construct and establish confinement and treatment facilities totalling 8,000 beds, together with necessary service facilities.

(b) The facilities authorized by this section shall be used for the confinement and treatment of inmates committed to the Department of Corrections.

(c) Preference for construction shall be given to a site on federal property in the Mojave Desert.

(d) The department may acquire property for the purposes of this section by purchase, by lease with a term of at least 20 years, or by any similar arrangement that provides the department with the right to occupy the property for at least 20 years. Construction may include the adaptation of existing facilities.

(e) Any contract or subcontract for the construction of facilities authorized by this section shall provide for payment of wages to all workers no less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and no less than the general prevailing rate of per diem wages for holiday and overtime work.

SECTION 36. (a) The Department of Corrections is authorized to construct and establish confinement and treatment facilities to house prisoners who might otherwise be housed in county jails. These facilities shall be operated by counties, as authorized by law. Counties may contract with the Department of Corrections to operate all or any portion of these facilities.

(b) Facilities with a total capacity of 6,000 beds shall be located in southern California. For that purpose, "southern California" means the Counties of Santa Barbara, Kern, and San Bernardino, and the more southerly counties.

(c) Other facilities, having a capacity of 4,000 beds, shall be located in northern California in the vicinity of the counties bordering the San Francisco Bay.

(d) Sections 6029 and 6030 of the Penal Code shall not apply to facilities constructed under this section.

(e) Any contract or subcontract for the construction of facilities authorized by this section shall provide for payment of wages to all workers no less than the general prevailing rate of per diem wages for work of a similar character in the

locality in which the work is performed, and no less than the general prevailing rate of per diem wages for holiday and overtime work.

SECTION 37. The sum of seven hundred forty million dollars ($740,000,000) is hereby appropriated from the Emergency Correctional Facility Bond Fund for use as follows:

(a) The sum of three hundred six million dollars ($306,000,000) is appropriated to the Department of Corrections for the facilities authorized by Section 35.

(b) (1) The sum of two hundred sixty-four million dollars ($264,000,000) is appropriated to the Department of Corrections for the joint use jail facilities in southern California authorized by Section 36.

(2) The sum of one hundred seventy million dollars ($170,000,000) is appropriated to the Department of Corrections for the joint use jail facilities in northern California authorized by Section 36.

(c) Funds appropriated by this section shall be available for purposes, as necessary, of site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and long-lead and equipment items. For that purpose, site acquisition includes the payment for the right to occupy the property for at least 20 years.

TITLE V.
FUNDING

SECTION 38. Section 17008.5 is added to the Revenue and Taxation Code, to read:

17008.5. (a) The provisions of Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply to taxable years beginning on or after January 1, 1991, except that Section 10211(c)(2) of Public Law 100-203 shall apply.

(b) The amendments to Section 7704 of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to certain publicly traded partnerships treated as corporations, shall apply to taxable years beginning on or after January 1, 1991.

SECTION 39. 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, reduced by credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to 7 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by the alternative credit for taxes paid to other states as allowed by Chapter 12 (commencing with Section 18001).

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed as if the nonresident or part-year resident were a resident for the entire year multiplied by the ratio of California adjusted gross income (as modified for purposes of this chapter) to total adjusted gross income from all sources (as modified for purposes of this chapter). For purposes of computing the tax under subparagraph (A) and gross income from all sources, the net operating loss deduction provided in Section 56(d) of the Internal Revenue Code shall be computed as if the taxpayer were a resident for all prior years.

(C) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, only those items of adjusted gross income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(4) (A) If there was a deferral of preference tax under former Section 17064.8 for any taxable year beginning before January 1, 1987, and the amount of the deferred tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers which may be carried to taxable years beginning after December 31, 1986, for purposes of this chapter, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid.

(B) In the case of a net operating loss allowed to be carried forward under subdivision (d) of Section 17276, subparagraph (A) shall apply to the extent that such a loss would have resulted in a deferred tax under prior law.

(5) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not be applicable.

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

(7) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

~~(c) The amendments to Section 56(a)(6) of the Internal Revenue Code made by Section 10202(d) of Public Law 100/203, relating to minimum tax, shall not apply.~~

SECTION 40. Section 17094 of the Revenue and Taxation Code is repealed.

~~17094. The provisions of Section 81 of the Internal Revenue Code, relating to increases in vacation pay suspense account, shall apply as amended by Public Law 99/514.~~

SECTION 41. Section 17279 of the Revenue and Taxation Code is repealed.

~~17279. The provisions of Section 10204 of Public Law 100/203, relating to amortization of past service pension costs, shall not apply.~~

SECTION 42. Section 17560 of the Revenue and Taxation Code is amended to read:

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

(b) (1) If an election is not made under subdivision (a), then for purposes of applying the provisions of Section 453C of the Internal Revenue Code, relating to certain indebtedness treated as a payment on installment obligations, 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.

(2) 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 amendments to Sections 453, 453A, and 453C made by Section 10202 of Public Law 100/203, relating to installment sales, shall not apply.~~

~~(d) The amendments to Sections 453, 453A, and 453C made by Public Law 100/647, relating to installment sales, shall not apply.~~

(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, 1991.

(d) (1) The amendments to Section 453 of the Internal Revenue Code by Section 2004 of Public Law 100-647, relating to the installment method, shall apply to taxable years beginning on or after January 1, 1991.

(2) 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.

(3) The provisions of Section 10202(e)(2) and 10204(b)(2)(B) of Public Law 100-203, relating to change in method of accounting, are modified to provide that any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(A) Fifty percent in the first taxable year beginning on or after January 1, 1991.

(B) Fifty percent in the second taxable year beginning on or after January 1, 1991.

(e) (1) The amendments to Section 453A of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to special rules for nondealers, shall apply to taxable years beginning on or after January 1, 1991.

(2) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the taxable year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the tax imposed under 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.

(3) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 17041 in lieu of the maximum rate of tax imposed under Section 1 or 11 of the Internal Revenue Code.

SECTION 43. Section 17561 of the Revenue and Taxation Code is amended to read:

17561. (a) For purposes of this part, the provisions of Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, are modified to refer to the following credits:

(1) The credit for research expenses allowed by Section 17052.12.

(2) The credit for certain wages paid (targeted jobs) allowed by Section 17053.7.

(3) The credit for clinical testing expenses allowed by Section 17057.

(4) The credit for low-income housing allowed by Section 17058.

(b) For purposes of applying the provisions of Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars ($25,000) offset for rental real estate activities:

(1) The dollar limitation for the credit allowed under Section 17058 (relating to low-income housing) shall be equal to seventy-five thousand dollars ($75,000) in lieu of the amount specified in Section 469(i)(2) of the Internal Revenue Code.

(2) The term "adjusted gross income," as defined in Section 469(i)(3)(D), shall mean the amount required to be shown as adjusted gross income on the federal tax return for the same taxable year determined without regard to—

(A) Any amount includible in gross income on the federal tax return under Section 86 of the Internal Revenue Code.

(B) Any amount allowed as a deduction on the federal tax return under Section 219 of the Internal Revenue Code.

(C) Any passive activity loss.

(c) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

(d) For taxable years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

(e) The amendments to Section 469(k) of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to separate application of Section 469 in case of publicly traded partnerships, shall apply to taxable years beginning on or after January 1, 1991.

SECTION 44. Section 17563 of the Revenue and Taxation Code is amended to read:

17563. ~~The repeal of Section 463 of the Internal Revenue Code by Section 10201 of Public Law 100/203, relating to accrual of vacation pay, shall not apply.~~ *(a) In the case of any taxpayer who elected to have Section 463 of the Internal Revenue Code of 1986 apply for that taxpayer's last taxable year beginning prior to January 1, 1991, and who is required to change his or her method of accounting by reason of the amendments made by the act adding this provision, each of the following shall apply:*

(1) The change shall be treated as initiated by the taxpayer.

(2) The change shall be treated as having been made with the consent of the Franchise Tax Board.

(3) The net amount of adjustments required by Chapter 6 (commencing with Section 17551) to be taken into account by the taxpayer:

(A) Shall be reduced by the balance in the suspense account, under Section 463(c) of the Internal Revenue Code as of the close of the last taxable year beginning before January 1, 1991, and

(B) Shall be taken into account over the two taxable year period beginning with the taxable year following that last taxable year, as follows:

In the case of the:	*The percentage to be taken into account is:*
1st Year	*50*
2nd Year	*50*

(b) Notwithstanding subparagraph (B) of paragraph (3) of subdivision (a), if the period during which the adjustments are required to be taken into account under Chapter 6 (commencing with Section 17551) is less than two years, those adjustments shall be taken into account ratably over the shorter period.

SECTION 45. Section 17564 of the Revenue and Taxation Code is amended to read:

17564. (a) Long-term contracts shall be accounted for in accordance with the special rules set forth in Section 460 of the Internal Revenue Code.

(b) (1) The provisions of Section 804(d) of Public Law 99-514, relating to the effective date of modifications in the method of accounting for long-term contracts, shall be applicable to taxable years beginning on or after January 1, 1987.

(2) In the case of a contract entered into after February 28, 1986, during a taxable year beginning before January 1, 1987, an adjustment to income shall be made upon completion of the contract, if necessary, to correct any underreporting or overreporting of income, for purposes of this part, resulting from differences between state and federal law for the taxable year in which the contract began.

~~(c) 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 not apply.~~

~~(d) 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 not apply.~~

(c) In the case of a contract entered into after October 13, 1987, during a taxable year beginning before January 1, 1991, 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 taxable years beginning prior to January 1, 1991.

(d) In the case of a contract entered into after June 20, 1988, during a taxable year beginning before January 1, 1991, 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 taxable years beginning prior to January 1, 1991.

(e) 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 subdivision (b), *(c), or (d)* shall be deemed to have been reported in the taxable year from which the adjustment arose, rather than the taxable year in which the contract was completed.

SECTION 46. Section 23038.5 is added to the Revenue and Taxation Code, to read:

23038.5. (a) The provisions of Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply to income years beginning on or after January 1, 1991, except that Section 10211(c)(2) of Public Law 100-203 shall apply.

(b) The amendments to Section 7704 of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to certain publicly traded partnerships treated as corporations, shall apply to income years beginning on or after January 1, 1991.

SECTION 47. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during income years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

~~(3) The amendments to Section 56(a)(6) of the Internal Revenue Code made by Section 10202(d) of Public Law 100/203, relating to minimum tax, shall not apply.~~

(b) Section 56(c)(2) of the Internal Revenue Code, relating to Merchant Marine Capital Construction Funds, shall not be applicable.

(c) (1) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to "December 31, 1986," are modified to read "December 31, 1987," and all references to "January 1, 1987," are modified to read "January 1, 1988."

(2) (A) If there was a deferral of preference tax under former Section 23405 for any income year beginning before January 1, 1988, and the amount of the deferred tax has not been paid for any income year beginning before January 1, 1988, the amount of the net operating loss carryovers which may be carried to income years beginning after December 31, 1987, for purposes of this chapter, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid.

(B) In the case of a net operating loss allowed to be carried forward under subdivision (e) of Section 24416, subparagraph (A) shall apply to the extent that such a loss would have resulted in a deferred tax under prior law.

(d) (1) Section 56(f)(2)(B) *of the Internal Revenue Code*, relating to adjustments for certain taxes, is modified to read: The amount determined under subparagraph (A) shall be appropriately adjusted to disregard any tax on or measured by income.

(2) The last sentence of Section 56(f)(2)(B) *of the Internal Revenue Code*, relating to taxes imposed by a foreign country or possession, shall not be applicable.

(3) Section 56(f)(2)(C)(i) of the Internal Revenue Code, relating to consolidated returns, is modified to substitute "combined report" for "consolidated return."

(4) Section 56(f)(2)(C)(ii) of the Internal Revenue Code, relating to treatment of dividends of related corporations, is modified to read: Adjusted net book income shall take into account only those dividends (or portions thereof) which have been included in net income for purposes of determining the regular tax.

(5) Section 56(f)(2)(F) of the Internal Revenue Code, relating to treatment of dividends from 936 corporations, shall not be applicable.

(6) Section 56(f)(2)(G) of the Internal Revenue Code, relating to rules for Alaska native corporations, shall not be applicable.

(7) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in book income shall not exceed the amount of interest income included for purposes of the regular tax.

(8) Appropriate adjustments shall be made to limit deductions from book income for interest expense in accordance with Sections 24344 and 24425.

(e) Section 56(g)(4)(A) of the Internal Revenue Code ~~shall be~~ *is* modified to provide that in the case of any property placed in service on or after January 1, 1981, and prior to January 1, 1987, and not described in clause (i), (ii), or (iii) of Section 56(g)(4)(A) of the Internal Revenue Code, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the income year had the taxpayer depreciated the property under the straight-line method for each income year of the useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

(f) (1) Section 56(g)(4)(C) of the Internal Revenue Code, relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:

(A) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100 percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(2) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(3) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with ~~the provisions of~~ Sections 24344 and 24425.

SECTION 48. Section 23732 of the Revenue and Taxation Code is amended to read:

23732. The provisions of Section 512 of the Internal Revenue Code, relating to unrelated business taxable income, shall apply ~~as amended by Public Law 99/514~~, except as otherwise provided.

(a) Section 512(a)(2) of the Internal Revenue Code, relating to special rules for foreign organizations, shall not be applicable.

(b) Section 512(a)(3) of the Internal Revenue Code, relating to special rules applicable to certain organizations, shall be modified as follows:

(1) The reference to Section 501(c)(7) of the Internal Revenue Code, relating to clubs organized for pleasure, recreation, and other nonprofitable purposes, shall be modified to refer to Section 23701g.

(2) The reference to Section 501(c)(9) of the Internal Revenue Code, relating to voluntary employees' beneficiary associations, shall be modified to refer to Section 23701i.

(3) The reference to Section 501(c)(17) of the Internal Revenue Code, relating to trusts providing for payment of supplemental unemployment compensation benefits, shall be modified to refer to Section 23701n.

(4) The reference to Section 501(c)(20) of the Internal Revenue Code, relating to qualified group legal services plans, shall be modified to refer to Section 23701q.

(c) Section 512(b)(10) of the Internal Revenue Code, relating to charitable contributions, shall be modified to provide that such deductions shall not exceed 5 percent of the unrelated business taxable income, rather than 10 percent.

SECTION 49. Section 23735 of the Revenue and Taxation Code is amended to read:

23735. (a) The provisions of Section 514 of the Internal Revenue Code, relating to unrelated debt-financed income, shall ~~be applicable~~ *apply*, except as otherwise provided.

(b) The provisions of Section 10214 of Public Law 100-203, relating to the treatment of certain partnership allocations, shall ~~not~~ apply *to income years beginning on or after January 1, 1991, for property acquired by the partnership after October 13, 1987, and partnership interests acquired after October 13, 1987*.

SECTION 50. 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 (relating to net operating loss deductions), but only with respect to losses incurred during periods in which the corporation had in effect a valid election to be treated as an "S corporation" for purposes of this part.

(2) Section 1371(b) of the Internal Revenue Code, relating to denial of carryovers between "C years" and "S years", shall apply for purposes of the tax imposed under subdivision (b), except as provided in paragraph (1) of this subdivision.

(3) The provisions of this subdivision shall not affect the amount of any item of income or loss computed in accordance with the provisions of Section 1366 of the Internal Revenue Code, relating to pass-thru items to shareholders.

(4) For purposes of subdivision (b) of Section 17276, relating to limitations on loss carryovers, losses passed through to shareholders of an "S corporation," to the extent otherwise allowable without application of that subdivision, shall be fully included in the net operating loss of that shareholder and then that subdivision shall be applied to the entire net operating loss.

(e) For purposes of computing the taxes specified in subdivision (b), an "S corporation" shall be allowed a deduction from income for built-in gains and passive investment income for which a tax has been imposed under this part in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, or Section 1375 of the Internal Revenue Code, relating to tax imposed on passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b)—

(1) An "S corporation" shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) The provisions of Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) The provisions of Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual.

(B) For purposes of this paragraph, the "adjusted gross income" of the "S corporation" shall be equal to its "net income," as determined under Section 24341 with the modifications required by this subdivision.

(g) The amendments to Section 1363 of the Internal Revenue Code made by Section ~~10227~~ *2004* of Public Law ~~100/203~~ *100-647*, relating to ~~recapture of LIFO amount in the case of elections by S corporations, shall not apply.~~ *effect of election on corporation, shall apply to income years beginning on or after January 1, 1991.*

(h) 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.

SECTION 51. Section 24274 of the Revenue and Taxation Code is repealed.

~~24274. The provisions of Section 81 of the Internal Revenue Code, relating to increases in vacation pay suspense account, shall apply as amended by Public Law 99/514.~~

SECTION 52. Section 24402 of the Revenue and Taxation Code is amended to read:

24402. ~~Dividends~~ *(a) A portion of the dividends* received during the income year declared from income which has been included in the measure of the taxes imposed under Chapter 2 (commencing with Section 23101), *Chapter 2.5 (commencing with Section 23400)*, or Chapter 3 (commencing with Section 23501) upon the taxpayer declaring the dividends.

(b) The portion of dividends which may be deducted under this section shall be as follows:

(1) In the case of any dividend described in subdivision (a), received from a "more than 50 percent owned corporation," 100 percent.

(2) In the case of any dividend described in subdivision (a), received from a "20 percent owned corporation," 80 percent.

(3) In the case of any dividend described in subdivision (a), received from a bank or corporation which is less than 20 percent owned, 70 percent.

(c) For purposes of this section:

(1) The term "more than 50 percent owned corporation" means any bank or corporation if more than 50 percent of the stock of that bank or corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in Section 1504(a)(4) of the Internal Revenue Code shall not be taken into account.

(2) The term "20 percent owned corporation" means any bank or corporation if 20 percent or more of the stock of that bank or corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in Section 1504(a)(4) of the Internal Revenue Code shall not be taken into account.

SECTION 53. Section 24422.3 of the Revenue and Taxation Code is amended to read:

24422.3. ~~(a)~~ Capitalization and inclusion in inventory costs of certain expenses shall be determined in accordance with Section 263A of the Internal Revenue Code.

~~(b) The provisions of Section 10204 of Public Law 100/203, relating to amortization of past service pension costs, shall not apply.~~

SECTION 54. Section 24457 of the Revenue and Taxation Code is amended to read:

24457. (a) Section 304 of the Internal Revenue Code, relating to redemption through the use of related corporations, shall be applicable, except as otherwise provided.

(b) For purposes of applying the provisions of Section 304(b)(4) of the Internal Revenue Code, the term "affiliated group" means a controlled group within the meaning of Section 24564.

~~(c) The amendments to Section 304 of the Internal Revenue Code made by Section 10223 of Public Law 100/203, relating to redemption through use of related corporations, shall not apply.~~

SECTION 55. Section 24533 of the Revenue and Taxation Code is amended to read:

24533. (a) Section 24532 shall apply only if either—

(1) The distributing corporation, and the controlled corporation (or, if stock of more than one controlled corporation is distributed, each of such corporations) is engaged immediately after the distribution in the active conduct of a trade or business; or

(2) Immediately before the distribution, the distributing corporation had no assets other than stock or securities in the controlled corporations and each of the controlled corporations is engaged immediately after the distribution in the active conduct of a trade or business.

(b) For purposes of subsection (a), a corporation shall be treated as engaged in the active conduct of a trade or business if and only if—

(1) It is engaged in the active conduct of a trade or business, or substantially all of its assets consist of stock and securities of a corporation controlled by it (immediately after the distribution) which is so engaged;

(2) Such trade or business has been actively conducted throughout the five-year period ending on the date of the distribution;

(3) Such trade or business was not acquired within the period described in paragraph (2) in a transaction in which gain or loss was recognized in whole or in part; and

(4) Control of a corporation which (at the time of acquisition of control) was conducting such trade or business—

(A) Was not acquired *by any distributee corporation* directly (or through one or more corporations, *whether through the distributing corporation or otherwise*) ~~by another corporation~~ within the period described in paragraph (2) *and was not acquired by the distributing corporation directly (or through one or more corporations) within that period*, or

(B) Was so acquired by ~~another~~ *any such* corporation within ~~such~~ *that* period, but, *in each case in which* such control was so acquired, *it was so acquired*, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of ~~such~~ *that* period.

(C) For purposes of this paragraph, all distributee corporations which are members of a controlled group (within the meaning of Section 24564) shall be treated as one distributee corporation.

(c) For income years beginning on or after January 1, 1991, Section 311 of the Internal Revenue Code (as incorporated by Section 24481) shall apply to any distribution:

(1) To which this section (or so much of Sections 24535 to 24539, inclusive, as relates to this section) applies, and

(2) Which is not in pursuance of a plan of reorganization, in the same manner as if the distribution were a distribution to which Chapter 2 (commencing with Section 23101) or Chapter 2.5 (commencing with Section 23400) applies, except that Section 311(b) of the Internal Revenue Code shall not apply to any distribution of stock or securities in the controlled corporation.

(d)(1) Except as provided in paragraph (2), the amendments to this section by the act adding this subdivision shall apply to income years beginning on or after January 1, 1991, for distributions or transfers after December 15, 1987.

(2) The amendments to this section by the act adding this subdivision shall not apply to any distribution after December 15, 1987, and before January 1, 1993, if:

(A) Eighty percent or more of the stock of the distributing corporation was acquired by the distributee before December 15, 1987, or

(B) Eighty percent or more of the stock of the distributing corporation was acquired by the distributee before January 1, 1991, pursuant to a binding written contract or tender offer in effect on December 15, 1987.

For purposes of the preceding sentence, stock described in Section 1504(a)(4) of the Internal Revenue Code shall not be taken into account.

(3)(A) For purposes of paragraph (2), all corporations which were in existence on the designated date and were members of the same controlled group (as defined ~~in~~ Section 24564) which included the distributees on that date shall be treated as one distributee.

(B) Subparagraph (A) shall not exempt any distribution from the amendments made to this section by the act adding this subdivision if that distribution is with respect to stock not held by the distributee (determined without regard to subparagraph (A)) on the designated date directly or indirectly through a corporation which goes out of existence in the transaction.

(C) For purposes of this paragraph, the term "designated date" means the later of:

(i) December 15, 1987, or

(ii) The date on which the acquisition meeting the requirements of paragraph (2) occurred.

SECTION 56. Section 24601 of the Revenue and Taxation Code is amended to read:

24601. ~~(a)~~ The provisions of Sections 404, 404A, 406, 407, 419, and 419A of the Internal Revenue Code shall apply, except as otherwise provided.

~~(b) the provisions of Section 10201 of Public Law 100/203, relating to accrual of vacation pay, shall not apply.~~

SECTION 57. Section 24652 of the Revenue and Taxation Code is amended to read:

24652. ~~(a)~~ The method of accounting for corporations engaged in farming shall be determined in accordance with Section 447 of the Internal Revenue Code.

~~(b) The provisions of Section 10205 of Public Law 100/203, relating to certain farm corporations required to use the accrual method of accounting, shall not apply.~~

SECTION 58. Section 24667 of the Revenue and Taxation Code is amended to read:

24667. (a) (1) Installment sales shall be treated in accordance with Sections 453, 453A, 453B, and 453C of the Internal Revenue Code, except as otherwise provided.

(2) For purposes of applying the provisions of Section 453C of the Internal Revenue Code, relating to certain indebtedness treated as payment on installment obligations, the provisions of Sections 811(c)(2), 811(c)(4), 811(c)(6), and 811(c)(7) of Public Law 99-514, as modified by Section 1008(f) of Public Law 100-647, shall apply to income years beginning on or after January 1, 1988.

(3) The provisions of Section 812 of Public Law 99-514, relating to the disallowance of use of the installment method for certain obligations, as modified by Section 1008(g) of Public Law 100-647, shall apply to income years beginning on or after January 1, 1988.

(b) For purposes of subdivision (a), any references in the Internal Revenue Code to sections that have not been incorporated into this part by reference shall be deemed to refer to the corresponding section, if any, of this part.

~~(c) The amendments to Sections 453, 453A and 453C made by Section 10202 of Public Law 100/203, relating to installment sales, shall not apply.~~

~~(d) The amendments to Sections 453, 453A and 453C made by Public Law 100/647, relating to installment sales, shall not apply.~~

(c) In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under former Section 24667 or 24668 for the taxpayer's last income year beginning before January 1, 1988, the provisions of this section shall be treated as a change in method of accounting for its first income year beginning after December 31, 1987, and all of the following shall apply:

(1) That change shall be treated as initiated by the taxpayer.

(2) That change shall be treated as having been made with the consent of the Franchise Tax Board.

(3) The period for taking into account adjustments under Article 6 (commencing with Section 24721) by reason of that change shall not exceed four years.

(d) The repeal of Section 453C of the Internal Revenue Code by Section 10202(a) of Public Law 100-203, relating to repeal of the proportionate disallowance of the installment method, shall apply to dispositions on or after January 1, 1991.

(e) (1) The amendments to Section 453 of the Internal Revenue Code by Section 2004 of Public Law 100-647, relating to the installment method, shall apply to income years beginning on or after January 1, 1991.

(2) 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" (as defined by subdivision (a) of Section 23036) for any income year for which payment is received on that obligation shall be increased by the amount of interest determined in the manner provided under Section 453(l)(3)(B) of the Internal Revenue Code.

(3) The provisions of Section 10202(e)(2) and 10204(b)(2)(B) of Public Law 100-203, relating to change in method of accounting, are modified to provide that any adjustments required by Section 481 of the Internal Revenue Code shall be included in gross income as follows:

(A) Fifty percent in the first income year beginning on or after January 1, 1991.

(B) Fifty percent in the second income year beginning on or after January 1, 1991.

(f) (1) The amendments to Section 453A of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to special rules for nondealers, shall apply to income years beginning on or after January 1, 1991.

(2) In the case of any installment obligation to which Section 453A of the Internal Revenue Code applies and which is outstanding as of the close of the income year, in lieu of the provisions of Section 453A(c)(1) of the Internal Revenue Code, the "tax" (as defined by subdivision (a) of Section 23036) for the income year shall be increased by the amount of interest determined in the manner provided under Section 453A(c)(2) of the Internal Revenue Code.

(3) The provisions of Section 453A(c)(3)(B) of the Internal Revenue Code, relating to the maximum rate used in calculating the deferred tax liability, are modified to refer to the maximum rate of tax imposed under Section 23151, 23186, or 23802, whichever applies, in lieu of the maximum rate of tax imposed under Section 11 of the Internal Revenue Code.

SECTION 59. 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) 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 not apply.~~

~~(d) 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 not apply.~~

(c) In the case of a contract entered into after October 13, 1987, during an income year beginning before January 1, 1991, 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 taxable years beginning prior to January 1, 1991.

(d) In the case of a contract entered into after June 20, 1988, during an income year beginning before January 1, 1991, 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 taxable years beginning prior to January 1, 1991.

(e) 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 subdivision (b), *(c), or (d)* 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.

SECTION 60. Section 24681 of the Revenue and Taxation Code is amended to read:

24681. ~~(a)~~ The provisions of Section 461 of the Internal Revenue Code, relating to the general rule for taxable year of deduction, shall be applicable, except as otherwise provided.

~~(b) The amendments to Section 461 of the Internal Revenue Code made by Section 10201 of Public Law 100/203, relating to accrual of vacation pay, shall not apply.~~

SECTION 61. Section 24685 of the Revenue and Taxation Code is repealed.

~~24685. (a) At the election of a taxpayer whose net income is computed under an accrual method of accounting, if the conditions of Section 24343 are otherwise satisfied, the deduction allowable under Section 24343 with respect to vacation pay shall be an amount equal to the sum of—~~

~~(1) A reasonable addition to an account representing the taxpayer's liability for vacation pay earned by employees before the close of the income year and paid during the income year or within eight and one-half months following the close of the income year, plus~~

~~(2) The amount (if any) of the reduction at the close of the income year in the suspense account provided in paragraph (2) of subdivision (c).~~

~~Such liability for vacation pay earned before the close of the income year shall include amounts which, because of contingencies, would not (but for this section) be deductible under Section 24343 as an accrued expense. All payments with respect to vacation pay shall be charged to such account.~~

~~(b) The opening balance of the account described in paragraph (1) of subdivision (a) for its first income year shall, under regulations prescribed by the Franchise Tax Board, be—~~

~~(1) In the case of a taxpayer who maintained a predecessor account for vacation pay under Section 97 of the Technical Amendments Act of 1958 (Public Law 85/866), as amended, for his last income year ending before January 1, 1976, and who makes an election under this section for his first income year ending after December 31, 1975, the larger of—~~

~~(A) The balance in such predecessor account at the close of such last income year, or~~

~~(B) The amount determined as if the taxpayer had maintained an account described in paragraph (1) of subdivision (a) for such last income year, or~~

~~(2) In the case of any taxpayer not described in paragraph (1), an amount equal to the largest closing balance the taxpayer would have had for any of the taxpayer's three income years immediately preceding such first income year if the taxpayer had maintained such account throughout such three immediately preceding income years.~~

~~(c) (1) the amount of the suspense account at the beginning of the first income year for which the taxpayer maintains under this section an account (described in paragraph (1) of subdivision (a)) shall be the amount of the opening balance described in subdivision (b) minus the amount, if any, allowed as deductions for prior income years for vacation pay accrued but not paid at the close of the income year preceding such first income year.~~

~~(2) At the close of each income year the suspense account shall be—~~

~~(A) Reduced by the excess, if any, of the amount in the suspense account at the beginning of the income year over the amount in the account described in paragraph (1) of subdivision (a) at the close of the income year (after making the additions and charges for such income year provided in subdivision (a)), or~~

~~(B) Increased (but not to an amount greater than the initial balance of the suspense account) by the excess, if any of the amount in the account described in paragraph (1) of subdivision (a) at the close of the income year (after making the additions and charges for such income year provided in subdivision (a)) over the amount in the suspense account at the beginning of the income year.~~

~~(d) An election under this section shall be made at such time and in such~~

~~manner as the Franchise Tax Board may by regulations prescribe.~~

~~(c) (1) The establishment of an account described in paragraph (1) of subdivision (a) shall not be considered a change in method of accounting for purposes of subdivision (e) of Section 24651 (relating to requirement respecting change of accounting method), and no adjustment shall be required under Section 24721 by reason of the establishment of such account.~~

~~(2) If the taxpayer treated vacation pay under Section 97 of the Technical Amendments Act of 1958 (P.L. 85/866), as amended, for his last income year ending before January 1, 1975, and if such taxpayer fails to make an election under this section for his first income year ending after December 31, 1975, then, for purposes of Section 24721, such taxpayer shall be treated as having initiated a change in method of accounting with respect to vacation pay for its first income year ending after December 31, 1975.~~

SECTION 62. Section 24685 is added to the Revenue and Taxation Code, to read:

24685. (a) In the case of any taxpayer who elected to have former Section 24685 apply to its last income year beginning prior to January 1, 1991, 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, and

(3) The net amount of adjustments required by Article 6 (commencing with Section 24721) to be taken into account by the taxpayer:

(A) Shall be reduced by the balance in the suspense account under subdivision (c) of former Section 24685 as of the close of the last income year beginning before January 1, 1991, 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 Article 6 (commencing with Section 24271) is less than two years, those adjustments shall be taken into account ratably over the shorter period.

SECTION 63. Section 24692 of the Revenue and Taxation Code is amended to read:

24692. (a) The treatment of passive activity losses and credits shall be determined in accordance with Section 469 of the Internal Revenue Code, except as otherwise provided.

(b) For purposes of this part, the provisions of Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, are modified to refer to the following credits:

(1) The credit for research expenses allowed by Section 23609.

(2) The credit for clinical testing expenses allowed by Section 23609.5.

(3) The credit for low-income housing allowed by Section 23610.5.

(4) The credit for certain wages paid (targeted jobs) allowed by Section ~~24330~~ *23621*.

(c) For purposes of applying the provisions of Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars ($25,000) offset for rental real estate activities, the dollar limitation for the credit allowed under Section 23610.5 (relating to low-income housing) shall be equal to seventy-five thousand dollars ($75,000) in lieu of the amount specified in Section 469(i)(2) of the Internal Revenue Code.

(d) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

(e) For income years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

(f) The amendments to Section 469(k) of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to separate application of section in case of publicly traded partnerships, shall apply to income years beginning on or after January 1, 1991.

SECTION 64. Section 24990.5 of the Revenue and Taxation Code is amended to read:

24990.5. (a) Section 1201 of the Internal Revenue Code, relating to alternative tax for corporations, shall not be applicable.

~~(b) The provisions of Section 1211 of the Internal Revenue Code, relating to limitation on capital losses, shall not be applicable.~~

~~(c) The provisions of Section 1212 of the Internal Revenue Code, relating to capital loss carrybacks and carryovers, shall not be applicable.~~

(b) The provisions of Section 1212 of the Internal Revenue Code, relating to capital loss carrybacks and carryovers, shall be modified as follows:

(1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating to capital loss carrybacks, shall not apply.

(2) Section 1212(a)(3) of the Internal Revenue Code, relating to special rules on carrybacks, shall not apply.

(3) Sections 1212(b) and 1212(c) of the Internal Revenue Code, relating to taxpayers other than a corporation, shall not apply.

SECTION 65. Unless otherwise specifically provided, this act shall be applied in the computation of taxes for taxable or income years beginning on or after January 1, 1991.

TITLE VI.

GENERAL PROVISIONS

SECTION 66. If any provision of this measure or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

SECTION 67. The statutory provisions contained in this measure may not be amended by the Legislature except as follows:

(a) Sections 4 and 38 through 65 may be amended by statute passed in each house, a majority of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(b) All other statutory provisions contained in this measure may be amended by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

Proposition 130: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Government Code, adds a section to the Public Contract Code, and amends, repeals, and adds sections to the Public Resources Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

Section One. Title. This Initiative shall be known as the Forest and Wildlife Protection and Bond Act of 1990.

Section Two. Part 2.7, Chapter 1, commencing with Section 4800, is hereby added to Division 4 of the Public Resources Code, to read as follows:

Article 1. General Provisions

Section 4800. This chapter shall be known as the Forest and Wildlife Protection and Bond Act of 1990.

Section 4801. Findings and Declarations. The People hereby find and declare all of the following:

(a) California's remaining ancient forests are a unique and irreplaceable natural resource and are valuable for biological, scientific, recreational, aesthetic, and other important reasons. Such forests provide clean water, clean air, and healthy watersheds, and help to reduce global warming. Forests and the wildlife that inhabit them also have inherent worth.

(b) The vast majority of California's ancient forests have already been logged, and it can take several hundred years or more for a logged forest to acquire ancient forest characteristics and to provide habitat for species which require such conditions.

(c) Numerous species of animals and plants in California depend upon ancient forests for important habitat, and many of these species are in danger of extinction if logging of ancient forests continues.

(d) Biological diversity is essential to the long-term health of ecosystems and is critical to a high quality environment for future Californians. Acquiring and protecting the remaining ancient forests and establishing sustainable practices in all forests will not only promote biological diversity, but will also set an important national and international example of the steps necessary to prevent deforestation worldwide.

(e) Existing laws have failed to prevent widespread logging abuses on private lands, including destruction of ancient forests, degradation of water quality and wildlife habitat, and high levels of soil erosion. A new approach to forestry practices is necessary to protect California's forests and to insure that the forest products industry is sustainable over the long term.

(f) In order to reduce soil erosion and degradation of water quality and fish habitat and to provide forest habitat for many wildlife and plant species that depend upon healthy riparian areas, it is necessary to restrict logging operations near streams and lakes.

(g) Clearcutting and related logging methods have been severely abused on private lands and have caused accelerated soil erosion, declines in soil productivity, destruction of watersheds, reduction of biological diversity, and elimination of habitat for many species of wildlife. A shift to selection logging will greatly reduce these adverse impacts and will promote sustainable forestry practices throughout California.

(h) The long term goal of insuring a sustained yield from California timberlands has been acknowledged by the Legislature to be an important principle to achieve, but little progress has been made in reaching this goal. A new regulatory program is necessary in order to insure that private and state timberlands are not logged at higher than sustainable levels.

(i) A shift to sustainable forestry practices will stabilize rural economies, enhance investments in forest industries, guarantee future employment, and provide a long term competitive advantage for California forest products. Sustainable forestry practices will also prevent the rapid depletion of forest inventories that has resulted from financial speculation and corporate takeovers of timber companies.

(j) It is the policy of the State of California to discourage to the greatest extent possible the practice of exporting to foreign nations whole logs and cants originating from California forests. Such exports cause a major loss of California jobs. The People of California urge the Congress of the United States to promptly prohibit such exports.

(k) It is necessary to reform the composition of the Board of Forestry in order to insure that the Board represents and has expertise in a broader range of values that are affected by logging operations, particularly environmental and wildlife values.

(l) Because the acquisition of ancient forests may result in the layoff or

termination of some timber workers, it is desirable to create a program that will compensate and retrain such employees.

Section 4802. Purposes and Intent. It is the intent of the People of California that this Act be construed in light of the following primary objectives:

(a) To acquire and protect the most important ancient forests remaining on private lands and to provide habitat for wildlife species that are dependent upon such forests:

(b) To improve logging practices throughout the state by protecting streams, limiting the use of clearcutting, requiring sustainable forestry practices, reforming the Board of Forestry, and other means provided in this Act:

(c) To retrain and otherwise compensate timber workers who may be adversely affected by this Act:

(d) To provide the maximum protection to the natural environment within the reasonable scope of the statutory language; and

(e) To insure that decisions affecting forests and wildlife are based on the best available biological information.

It is the further intent of the people of California that this Act shall be carried out in the most expeditious manner possible, and all state officials shall implement this Act to the fullest extent of their authority.

Article II. Definitions

Section 4803. For the purposes of this chapter and of the Z'berg-Nejedly Forest Practice Act of 1973 the following terms shall be defined as follows:

(a) "Ancient forests" means:

(1) forests that contain an average of at least six live trees per acre greater than 200 years of age, which often contain a wide range of tree ages and sizes, large dead standing and fallen trees, and multi-layered canopies, and that are forty or more acres in size, either alone or in conjunction with any contiguous stand, regardless of ownership; or

(2) forests in which one or more dependent wildlife species are present and that are ten or more acres in size, either alone or in conjunction with any contiguous stand, regardless of ownership.

For purposes of this definition, dependent bird species are "present" only in their home and wintering territories, the northern goshawk is "present" only in its breeding territory, and other species are "present" wherever they occur.

(b) "Class I watercourse or lake" means a watercourse or lake which is a domestic water source, which is within three hundred feet upstream of such a source, or which provides habitat for fish.

(c) "Class II watercourse or lake" means a watercourse or lake, other than a Class I watercourse or lake:

(1) Within one thousand feet upstream of a watercourse or lake which provides habitat for fish, excluding direct tributaries to a Class I watercourse or lake which have no aquatic life present, or

(2) Which provides habitat for aquatic species other than fish.

(d) "Clearcutting" means the timber harvest method in which sixty percent or more of the timber volume of an area greater than two and one-half (2½) acres in size is logged at one time. This definition includes some harvest methods commonly referred to as "seed tree" and "shelterwood removal" methods.

(e) "Dependent wildlife species" are native species or subspecies of birds, mammals, reptiles, amphibians, insects or arthropods that find optimum habitat for at least part of their life cycle in forests with the structural characteristics described in Section 4803(a)(1), and whose population has declined or is declining in part or all of the state as the result of the logging of such forests. "Dependent wildlife species" include the following species or subspecies: Fisher; Red Tree Vole, including any closely related taxon presently or subsequently segregated from this species; Northern Spotted Owl; California Spotted Owl; Southern Spotted Owl; Flammulated Owl; Marbled Murrelet; Northern Goshawk; Olympic Salamander; Del Norte Salamander; Tailed Frog; Pine Marten; Wolverine; and any other species or subspecies subsequently added to this list pursuant to Section 4806.12(a). Dependent wildlife species are not "game" within the meaning of the California Constitution.

(f) "Emergency sanitation cutting" means logging of diseased or pest-infested timber necessary to control the spread of disease or insect pests to healthy trees.

(g) "Erosion hazard rating" refers to the classification system set forth in regulations implementing the Z'berg-Nejedly Forest Practice Act of 1973.

(h) "Eucalyptus plantation" means a forest which contains ninety (90) percent or more by volume of the genus Eucalyptus and which was established before the effective date of this Act.

(i) "Fiber plantation" means any area planted with trees which was not natural timberland as of 1940.

(j) "Logging road" means any private road used in conducting timber operations which is constructed or reconstructed. A "constructed" or "reconstructed" road has any of the following: surfacing, drainage structures, or intentional soil disturbance.

(k) "Mature trees" means trees which have reached or exceeded the age at which maximum mean annual growth, also known as culmination of mean annual increment, occurs on a particular site, using the Scribner log rule measurement or, if not possible, the most nearly equivalent methodology. The age at which trees reach maturity will depend upon site class, timber type, and other site-specific factors.

(l) "Selection method" means a timber harvest method in which individual trees or groups of trees no larger than two and one-half (2½) acres in size are selected for logging in a way that will promote natural regeneration of mature trees, in which a well distributed stand of healthy trees remains following completion of logging operations, and after which the area is composed of trees of various ages, sizes and species.

(m) "Seep" or "spring" means an area, excluding the bed of a watercourse but including the head of a watercourse, where water naturally flows or rises to the surface during much or all of the year, and at which water remains at least within a few feet of the surface throughout the year. The presence of Giant Chain Fern (Woodwardia fimbriata) often indicates the existence of a spring or seep.

(n) "Stand of virgin redwoods" means a forested area one hundred fifty or more acres in size that has never been subject to timber harvesting, in which coast redwoods constitute twenty percent or more of the basal area per acre.

(o) "Timber volume" means the volume of all softwoods and all hardwoods, including both commercial and non-commercial tree species, that are at least 4 inches in diameter at breast height of the largest bole, using the Scribner log rule measurement or, if not possible, the most nearly equivalent methodology.

(p) "Watercourse" means any well-defined channel with distinguishable bed and bank showing evidence of having contained flowing water indicated by deposit of rock, sand, gravel, or soil, including but not limited to a "stream" as defined in Section 4528(f) of the Public Resources Code.

Article III. Forest Practices

Section 4804. The provisions of this article apply to the practice of forestry on privately-owned timberlands and state forests in California.

Section 4804.1. (a) Subject to the provisions of this Section, clearcutting is prohibited in California, and the selection method shall be the only allowable harvest method.

(b) This Section does not apply to timber operations pursuant to a timber harvesting plan approved prior to the effective date of this Act if, prior to the effective date of this Act, substantial liabilities for timber operations have been incurred in good faith and adherence to this Section would cause unreasonable additional expense to the owner or operator.

(c) The prohibitions on clearcutting in this Section do not apply to:

(1) The harvest of Christmas trees, Eucalyptus plantations or fiber plantations;

(2) Authorized emergency sanitation cutting;

(3) Salvage of dead trees;

(4) Lands that have been approved for conversion to uses other than growing timber pursuant to Article 9 of the Z'berg-Nejedly Forest Practice Act of 1973;

(5) Fire breaks, fuel breaks and rights-of-way; and

(6) In the Northern and Southern Forest Districts harvesting areas up to 5 acres in size in Lodgepole Pine, Ponderosa Pine and Sierran Mixed Conifer cover types, as defined in the July 1988 assessment and analysis prepared pursuant to Section 4789.3, where the Department of Forestry finds that clearcutting would cause less adverse environmental impacts than the selection method on a particular site.

Provided, however, that exception (3) shall not apply in any ancient forest as defined in Section 4803(a).

(d) Except as provided in subsections (b) and (c)(1)-(5), after the completion of logging operations pursuant to a timber harvesting plan, not more than twenty percent of the area subject to the plan may be in clearings that are greater than ½ acre in size. No cutting or removal of timber in any area subject to a timber harvesting plan may occur more often than every ten years, except where necessary to conduct emergency sanitation cutting or to salvage dead or dying trees. For purposes of this subsection, a "clearing" is an area in which sixty percent or more of the volume of the area is logged at one time.

Section 4804.2. (a) The Board of Forestry shall issue regulations within one year of the effective date of this Act in order to reduce, to the maximum extent feasible, the adverse environmental impacts that may result from the burning of forest residues after logging operations are completed, including decreased soil productivity, increased soil erosion, and contributions to global warming associated with release of smoke. The regulations shall also provide effective protection against the adverse health effects of smoke. After the effective date of such regulations, no burning of forest residues may occur except in compliance with the regulations.

(b) The regulations shall require the Department of Forestry to inspect all sites subject to timber harvesting plans before burning is undertaken. No such burning shall be allowed unless the Department finds that it is necessary to eliminate an unreasonable risk of wildfire or to insure adequate site regeneration and that no alternatives to burning, such as removing fuel from the site or lopping or chipping of fuel on site, are feasible. No such burning may be allowed for the purpose of convenience or improving access to the site for planting.

(c) The regulations shall require the Department to specify permissible conditions for burning, including but not limited to date and time of burning, wind, temperature, humidity and other climatic factors, which will, to the maximum extent feasible, insure that sufficient organic debris and duff remain on the site to retain nutrients and soil productivity, prevent soil erosion, and reduce the cumulative impacts of smoke pollution.

(d) The regulations shall encourage the use of alternatives to burning that will retain nutrients and soil productivity and reduce, to the maximum extent feasible, soil erosion and the release of smoke.

Section 4804.3. The Board of Forestry shall issue regulations within one year of the effective date of this Act which will minimize the damage to the environment caused by logging roads and landings and allow such roads to be used for suppressing fires. The regulations shall insure compliance with the following minimum requirements:

(a) All logging roads shall be adequately maintained by the timberland owner or his or her agent for as long as the land has timber production as a continuing or anticipated use.

(b) Any logging road or landing that will not be used for future timber harvest shall be promptly restored as productive timberland, except where the lands have been approved for conversion to uses other than growing timber pursuant to Article 9 of the Z'berg-Nejedly Forest Practice Act of 1973.

(c) Any contract or other agreement that provides access to a logging road on lands not owned by the timberland owner shall provide a clear delegation of responsibility for compliance with this Section and the regulations.

Section 4804.4. The regulations described in Sections 4804.2 and 4804.3 shall not be subject to Article 6 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Section 4804.5. (a) Tractor logging shall not be allowed on any of the following:

(1) Slopes over 65 percent.

(2) Slopes over 50 percent except on pre-existing logging roads which do not require reconstruction.

(3) Any area having an extreme erosion hazard rating.

(b) No area which has a high erosion hazard rating may be entered by tractors or other ground disturbing equipment more often than every twenty years in cutting or removing timber.

Section 4804.6. No person may remove any dead tree or coarse woody debris, excluding slash, from any watercourse unless such removal would eliminate barriers to fish migration, reduce the amount of sedimentation entering the watercourse, reduce any hazard to structures or to public health or safety, or reduce the risk of flooding.

Section 4804.7. Notwithstanding Sections 4804.1 and 4805.2, any person who, after the effective date of this Act, does not sell for foreign export whole logs or cants originating within the State, or sell any whole logs or cants originating within the State to any person who sells such products for foreign export, may either

(a) Within five years after the effective date of this Act, use the clearcutting harvest method, subject to all of the following conditions:

(1) The timber operations are not conducted within an ancient forest.

(2) Any clearcut is no greater than ten acres in size.

(3) Any clearcut is at least three hundred feet from any other area ten acres or greater in size that has been clearcut in the past forty years on the same ownership and is at least one hundred fifty feet from any property boundary.

(4) Not more than twelve and one-half (12½) percent of any area subject to a timber harvesting plan may be clearcut during the five year period.

or

(b) Log, during the first ten-year period on the lands subject to a sustained yield plan, a volume of timber thirty percent more than the total volume of timber grown.

Article IV. Sustainable Forestry

Section 4805. Within two years of the effective date of this Act, the Board of Forestry shall adopt regulations to implement a sustainable forestry program for private and State lands as established in this Article. The regulations shall not be subject to Article 6 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Section 4805.1. No timber harvesting plan may be approved, and no timber operations may occur, on or after the effective date of the regulations, unless:

(a) a sustained yield plan, prepared by a registered professional forester, has been filed by the timber owner;

(b) the sustained yield plan has been approved by the Director of the Department of Forestry and Fire Protection; and

(c) the timber harvesting plan and timber operations comply with the sustained yield plan.

The regulations shall apply equally to the cutting and sale of timber and other forest products from state forests, as provided in Article 3 of Chapter 9 of Part 2 of Division 4 of the Public Resources Code. The Board shall determine the effective date of the regulations, which shall be not later than 180 days after the regulations are adopted.

Section 4805.2. (a) In any ten-year period on the lands subject to a sustained yield plan, the total volume of timber logged shall not exceed the total volume of timber grown and the volume of mature trees logged shall not exceed the volume of mature trees grown, unless site-specific data demonstrate that logging a greater volume would achieve maximum productivity sooner.

(b) In any ten-year period, when the lands subject to a sustained yield plan do not have maximum productivity, the total volume of timber logged on such lands shall be less than the total volume of timber grown and the volume of mature trees logged shall be less than the volume of mature trees grown, unless site-specific data demonstrate that logging a greater volume would achieve maximum productivity sooner.

(c) For purposes of this Article, "maximum productivity" means that the area subject to a sustained yield plan is producing the maximum growth (timber volume per year) that is sustainable in perpetuity, and that the area contains trees of various ages and sizes, including a sustainable component of mature trees. In determining maximum productivity, trees that have exceeded the age at which maximum mean annual growth occurs may be deemed to be at the age at which maximum mean annual growth occurs. The regulations shall establish guidelines for determining a site's maximum productivity, based on site class, timber type, and other site-specific and general factors, as appropriate.

(d) For purposes of subsections (a) and (b), the first ten-year period shall begin no later than the effective date of this Act, unless no timber harvesting plans are submitted during this period.

Section 4805.3. (a) The implementation period is the time necessary for the lands subject to a sustained yield plan to acquire maximum productivity, while allowing the timber owner to conduct timber operations consistent with this Article. The regulations shall establish a method for timber owners to determine the implementation period for a sustained yield plan based on site class, species composition, and other relevant factors. The implementation period shall not exceed 150 years, or less if feasible, except that where the species in the lands subject to a plan require more than 120 years to reach maturity, based on a weighted average by basal area of the species occupying more than 10 percent of the area, the implementation period may be extended by the amount of time by which the time to reach maturity exceeds 120 years.

(b) (1) During the implementation period, the regulations shall allow continued timber operations, including logging of trees that have not reached maturity to the extent consistent with this Article, while encouraging timber owners to allow trees to reach maturity before they are logged so that regular progress is made toward the goal of a stand that has maximum productivity.

(2) After the implementation period ends, the lands subject to the sustained yield plan shall have maximum productivity, with the exception of short-term volume reductions that will occur after any timber operations that are consistent with this Article.

Section 4805.4. Sustained yield plans shall comply with the following requirements:

(a) The plan shall set forth a proposed logging schedule, which may includ[e] thinnings and regeneration harvests, that complies with this Article.

(b) The plan shall demonstrate, based on site-specific timber inventory da[ta], growth and yield calculations, timber growth plots, or other necessary data, tha[t] the proposed logging schedule complies with this Article.

(c) The plan shall provide that, when the lands subject to the sustained yield plan do not have maximum productivity, the volume of all timber and the volume of mature timber increases regularly during the entire implementation period, with the exception of short-term volume reductions that will occur after any timber operations that are consistent with this Article.

(d) The plan shall be designed to produce, at the end of the implementation period, and sooner if feasible, a forest containing trees of various ages and sizes and a mix of species native to the site.

(e) The timber owner may determine which timberlands or timber rights will be subject to any sustained yield plan, provided that all such lands and rights shall be located within one county. The timber owner may elect to file one or more plans for all timberlands or timber rights within any county.

(f) There shall be only one sustained yield plan for an area, irrespective of any changes of ownership, except that a plan covering a larger area may incorporate by reference a plan for a smaller area.

Section 4805.5. The sustained yield plan shall be revised from time to time in order to reflect actual forest conditions or to allow changes in the proposed logging schedule that are consistent with this Article, provided that any such changes must be justified in writing and must comply with all the requirements of this Article. The plan may be revised when some or all of the timber to which it applies is destroyed by wildfire or other natural catastrophe; provided, however, that any dead or dying trees removed from such site shall be charged against the output allowed by the revised plan. If ten percent or more of the timber is so destroyed, the Director of the Department of Forestry and Fire Protection may extend the implementation period for compliance with this Article if necessary in order to allow reasonable use of the lands consistent with the objectives of this Article.

Section 4805.6. Notwithstanding any other provision in this Article, any person who, on the effective date of this Act, owns or controls no more than 5,000 acres of timberlands or timber rights within any district (as described in Section 4531) shall not be required to comply with Section 4805.2 with respect to such lands, but shall otherwise comply with this Article. The regulations may provide simplified rules to allow such persons to comply with this Article without unreasonable cost or delay.

Section 4805.7. Nothing in this Article shall be interpreted to require that trees be logged at any time.

Section 4805.8. (a) The Director shall promptly provide a copy of any sustained yield plan to any person who requests it.

(b) After the regulations are issued, the Director shall prepare and make available to the public a handbook which explains the sustainable forestry program and facilitates compliance with the regulations and this Article.

Section 4805.9. The requirements of this Article shall not apply to the production and harvest of Christmas trees, to eucalyptus plantations, or to fiber plantations.

Article V. Ancient Forest Acquisition and Management

Section 4806. The Wildlife Conservation Board may utilize the eminent domain authority of the State of California to acquire ancient forests pursuant to this Article, and shall utilize such authority whenever necessary to purchase a forest that has been selected for acquisition. Where necessary to protect such forest, the Wildlife Conservation Board shall utilize the procedures for possession prior to judgment specified in Article 3 of Chapter 6 of Title 7 of Part 3 of the Code of Civil Procedure.

Section 4806.1. Before exercising its eminent domain authority, to the extent feasible, the Wildlife Conservation Board shall consider acquiring ancient forests through gifts, purchases, leases, exchanges for other property of like value, transfers of development rights or credits, and purchases of development rights and other interests; provided, however, that the Wildlife Conservation Board shall not acquire any interests in ancient forests less than fee title unless such interests fully protect the ecological integrity of such forests in perpetuity.

Section 4806.2. Lands and interests acquired by the Wildlife Conservation Board pursuant to this Article shall be transferred either to the State Park and Recreation Commission, for management as a state park, state reserve, or state wilderness, or a natural preserve within any such unit, pursuant to Article 1.7 of Chapter 1 of Division 5 of the Public Resources Code, or to the Department of Fish and Game for management as ecological preserves, pursuant to Section 1580 of the Fish and Game Code, notwithstanding the provisions of Section 1582 of that Code; provided, however, that in all cases such lands and interests shall be managed in perpetuity to preserve their integrity and value as ancient forests and as habitat for dependent wildlife species.

Section 4806.3. (a) The Wildlife Conservation Board may acquire lands or rights, other than those specified in Section 4806.4, only to the extent necessary to allow the Board to acquire ancient forests at lower cost than through exercise of its eminent domain authority. Notwithstanding Section 4806.2, any lands or rights so acquired may be sold or exchanged for fee title or lesser interests in ancient forests. Any net proceeds from such sale or exchange shall be utilized for the acquisition of ancient forests as specified in this Article.

(b) Any real property acquired pursuant to this Act shall be acquired in compliance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

Section 4806.4. The Wildlife Conservation Board shall acquire, as expeditiously as possible and in accordance with the Property Acquisition Law:

(a) The Headwaters Forest, as described in Section 4806.10(a).

(b) Stands of virgin redwoods, as defined in Section 4803(n).

(c) Other ancient forests, according to the priorities established pursuant to this Article.

When acquiring an ancient forest, the Board may also acquire contiguous or intermingled lands, the acquisition of which would protect the ecological integrity of the ancient forest or make the area more manageable, or lands or rights necessary to provide reasonable access to the ancient forest. For purposes of this section, "acquire" means either to enter into a binding purchase agreement or to initiate eminent domain proceedings that protects the ecological integrity of such ancient forests. The lands specified in subsections (a) and (b) shall be acquired as quickly as feasible, and no later than November 7, 1991, if at all possible: provided, however, that the Board shall not delay acquisition of lands specified in subsection (c) while the lands specified in subsections (a) and (b) are being acquired.

Section 4806.5. The Wildlife Conservation Board shall rank ancient forests according to the Board's acquisition priorities, either individually or by category. In determining such priorities, the Board shall make findings with respect to the following factors:

(a) The size of the ancient forest;

(b) The extent to which the forest provides actual or potential habitat for dependent wildlife species, including its importance to populations of such species;

(c) The extent to which the forest has been free of disturbance from roads or timber operations;

(d) The extent to which the forest contributes to biological diversity, including, but not limited to, the extent to which the forest's vegetation types or other features are inadequately represented in existing state or federal preserves, such as wilderness areas and parks;

(e) The extent to which the forest's integrity has been compromised by fragmentation of surrounding landscapes; and

(f) The importance of the forest as a potential biological corridor or habitat island that may facilitate movement or dispersal of wildlife and plants.

In weighing such factors, the Board shall give high priority to acquiring forests 80 acres or larger that have never been logged, and ancient forests 400 acres or larger, unless the Board finds that a particular area does not provide important habitat for dependent wildlife species, that acquiring such an area would not contribute significantly to protection of biological diversity, or that the other factors listed above do not justify acquisition of such area.

Section 4806.6. The Wildlife Conservation Board's acquisition priorities and decisions shall be based solely on the best available biological data and shall not be based on commercial or economic factors, except that the anticipated cost of acquiring a site may be considered in relation to its potential for furthering the purposes of this Act.

Section 4806.7. The Wildlife Conservation Board shall comply with the procedures described in this Section when ranking ancient forests pursuant to Section 4806.5. Such ranking shall not be deemed a "regulation" within the meaning of the Administrative Procedure Act.

(a) Within 15 months of the effective date of this Act, and not less than annually thereafter until the Ancient Forest Protection Fund terminates, as provided in Section 4807.8, the Board shall:

(1) assemble a record consisting of all information relevant to the factors listed in Sections 4806.4 and 4806.5 which it has gathered or acquired for any ancient forests, including any intermingled and contiguous lands and lands providing access to such forests;

(2) make the findings required by Section 4806.5 and propose a ranking for all such forests concerning which it has information; and

(3) prepare a summary explanation of the rationale for its proposed ranking.

The proposed ranking, findings, and summary explanation shall be mailed to all persons who have requested such information. The record shall be continuously maintained by the Board and shall be made available to the public for inspection and/or copying.

(b) The Board shall accept written comments on its proposed ranking and findings for 60 days from the date the information is made available to the public. Within 60 days of the close of the comment period, the Board shall affirm or modify its findings, reach a final decision on ranking, and prepare a summary explanation of the rationale for its decision. Such information shall be mailed to all persons who submitted written comments and to all others who have requested notice of the decision. The notice shall notify the public of its right to petition the Board for amendment of the established ranking and to seek judicial review of the Board's decision.

(c) Any person may at any time petition the Board for amendment of the established ranking. The petition shall be in writing and shall clearly and concisely state why amendment would serve the purpose of this Article, and may provide supporting information. Within 30 days of receipt of any such petition, the Board shall mail a response denying the petition and summarizing its reasons for doing so, or setting a date not later than 90 days from receipt of the petition for initiating the process to consider such amendment. Any such amendment may be adopted only pursuant to the procedures established in subsections (a) and (b).

Section 4806.8. (a) (1) The Department of Fish and Game shall conduct an inventory of the state's private timberlands to identify ancient forests for possible acquisition. The results of such inventory shall be presented in a report not later than one year after the effective date of this Act, and annually thereafter for five years, or until the Ancient Forest Protection Fund terminates as provided in Section 4807.8, whichever is sooner.

(2) The reports shall identify the location of each such ancient forest, including a map and legal description, shall include information relating to the factors set forth in Section 4806.5, and shall contain the Department's recommendations for acquisition priorities; provided, however, that for ancient forests which the Department finds, based on all of the factors set forth in Section 4806.5, to be a low priority for acquisition, the Department may instead describe such forests and its reasons in summary form.

(3) The Department shall first inventory those forests that, based on available information, appear to provide important habitat for dependent wildlife species.

(b) The Department of Fish and Game may conduct all surveys, inventories, studies, or other activities that are reasonably necessary to complete the reports and to formulate recommendations for acquisition priorities. All such activities shall be based on the best available scientific information and shall utilize prevailing scientifically accepted protocols and procedures. The Department may enter onto private lands under reasonable terms and conditions in order to comply with this Section, after adequate notice has been given to the landowner. The Wildlife Conservation Board may request that the Department undertake any studies or obtain any information reasonably necessary to allow the Board to reach a decision on acquisition or acquisition priorities, and the Department shall respond to such requests as expeditiously as possible.

(c) Notwithstanding Article VIII, the actions authorized in this Section shall only be subject to judicial review in the context of a legal challenge to the Board's acquisition priorities or decisions.

Section 4806.9. The Wildlife Conservation Board shall rank and consider for acquisition, pursuant to the process described in this Article, ancient forests referred by the Department of Fish and Game pursuant to Section 4582.71. The Board may consolidate its decisions on several ancient forests, but in all cases the Board shall reach a decision no later than one year after filing of the timber harvesting plan. The Board may decide: (1) to acquire the forest; (2) not to acquire the forest; or (3) to delay the decision for a year if necessary to obtain additional information regarding the forest or other acquisition priorities; provided, however, that in all cases the Board shall reach a final decision within two years of the filing of the timber harvesting plan.

Section 4806.10. (a) The Wildlife Conservation Board shall immediately acquire the Headwaters Forest, situated in Humboldt Base and Meridian, Township Three North, Range One East, Section 8, W ½ of SW ¼, SE ¼ of SW ¼, SW ¼ of SE ¼; Section 15, SW ¼; Section 16; Section 17, E ½, NW ¼, NE ¼ of SW ¼, E ½ of NW ¼ of SW ¼, E ½ of SE ¼ of SW ¼; Section 20, NE ¼ of NE ¼, N ½ of NW ¼ of NE ¼, SE ¼ of NW ¼ of NE ¼, E ½ of SE ¼ of NE ¼, W ½ of SW ¼ of NE ¼, SE ¼ of NW ¼, E ½ of SE ¼, W ½ of NW ¼ of SE ¼, SE ¼ of NW ¼ of SE ¼, NE ¼ of SW ¼ of SE ¼, E ½ of NE ¼ of SW ¼; Section 21, N ½ of NE ¼, SW ¼ of NE ¼, N ½ of SE ¼ of NE ¼, NW ¼, NW ¼ of NW ¼ of SE ¼, N ½ of NE ¼ of SW ¼, W ½ of SW ¼; Section 22, SW ¼ of NE ¼, W ½ of SE ¼ of NE ¼, SE ¼ of SE ¼ of NE ¼, W ½ of NE ¼ of NW ¼, NW ¼ of NW ¼, SE ¼ of NW ¼, E ½ of SW ¼ of NW ¼, N ½ of SE ¼, SE ¼ of SE ¼, N ½ of SW ¼ of SE ¼, NE ¼ of SW ¼, E ½ of NW ¼ of SW ¼, N ½ of SE ¼ of SW ¼; Section 23, SW ¼ of SW ¼, W ½ of NW ¼ of SW ¼; Section 26, W ½ of NW ¼; Section 27, E ½ of NE ¼, NW ¼ of NE ¼, W ½ of SW ¼ of NE ¼; Section 28, N ½ of NW ¼ of NW ¼; Section 29, NE ¼ of NE ¼ of NE ¼; provided, however, that the Board need not acquire any portions of the Headwaters Forest that, because of logging activities, have little or no value for dependent wildlife species. The Board may also acquire contiguous or intermingled lands, and other lands or rights necessary to provide reasonable access to the Headwaters Forest, as described in Section 4806.4.

(b) The Board shall immediately acquire any stands of virgin redwoods in the Elk River drainage in Humboldt County.

Section 4806.11. Notwithstanding any other provision of law, including but not limited to Article 5 of Chapter 4.5 of Division 1 of Title 7 of the Government Code, no timber operations, including but not limited to road construction, shall occur, and no timber harvesting plan authorizing such logging shall be approved, within any stand of virgin redwoods between November 7, 1990, and November 7, 1991, or until the Wildlife Conservation Board decides not to acquire such a stand, whichever is earlier.

Section 4806.12. The Department of Fish and Game may, by regulation:

(a) (1) Add to the list of "dependent wildlife species" if the Department finds, based solely on the best available scientific data, that the species meets the definition in the first sentence of Section 4803(e).

(2) Remove a species from the list of "dependent wildlife species" if the Department finds, based solely on the best available scientific data, that there is compelling evidence that such species does not meet the definition in the first sentence of Section 4803(e).

(b) Establish mitigation measures or informational requirements for timber harvesting plans to protect wildlife, including but not limited to dependent wildlife species, from the adverse effects of timber operations. Such rules may apply to particular timber types, tree ages, regions of the State, or other categories of forests. Such requirements may include, but shall not be limited to, information regarding existing numbers and sizes of live trees, snags, and dead and down wood on the site, and requirements regarding the amount and locations of such features or other structural characteristics that must remain after timber operations are completed.

Section 4806.13. The regulations described in Section 4806.12 shall not be subject to Article 6 of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Article VI. Ancient Forest Protection Bonds

Section 4807. There is hereby created within the State Treasury the Ancient Forest Protection Fund, hereinafter "the Fund", which is continuously appropriated for carrying out the purposes of this Article without regard to fiscal years. Except as hereinafter provided, the Fund shall receive all proceeds of general obligation bonds issued pursuant to the provisions of this Article, the proceeds of the sale of timber pursuant to Article VIII of this chapter, and the proceeds of any fines received pursuant to Article VIII of this chapter. Notwithstanding the foregoing provision, proceeds of the sale of said bonds in an amount not to exceed $32 million shall be transferred to the Timber Workers

Compensation and Retraining Fund established pursuant to Article VII of this chapter.

Section 4807.1. Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this Article, the Ancient Forest Protection Fund Finance Committee is hereby created. For the purposes of this chapter, the Ancient Forest Protection Fund Finance Committee is the "Committee" as that term is used in the State General Obligation Bond Law. The Committee shall consist of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chair person of the committee. A majority of the Committee may act for the Committee.

Section 4807.2. For the purpose of adopting resolutions and taking other required action pursuant to this chapter, the Wildlife Conservation Board shall constitute the "Board" as that term is used in the State General Obligation Bond Act.

Section 4807.3. At the direction of the Board pursuant to an appropriate resolution, the Committee shall authorize the issuance of general obligation bonds in the total amount of seven hundred forty-two million dollars ($742,000,000), exclusive of refunding bonds, for the purposes specified in this Act. Except as hereinbefore provided, all proceeds from the sale of said bonds shall be deposited into the Ancient Forest Protection Fund. When sold, the bonds shall be and constitute a valid and binding obligation of the State of California and a pledge of the full faith and credit of the state for the punctual payment of both principal and interest thereof.

Section 4807.4. There shall be collected annually in the same manner and at the same time as other state revenue is collected the sum, in addition to the ordinary revenues of the state, as is required to pay the principal and interest on bonds authorized by this Article. It shall be the duty of all officers charged by law with any duty in regard to the collections of the revenue to do and perform each and every act which is necessary to collect that additional sum.

Section 4807.5. The provisions of the State General Obligation Bond Law (Chapter 4, commencing with Section 16720, of Part 3 of Division 4 of Title 2 of the Government Code) are hereby incorporated into this Article, and the provisions of that law shall be deemed included in this Article as though set out in full herein.

Section 4807.6. Money shall be disbursed from the Fund for the purposes of acquiring lands pursuant to Article V of this chapter, of satisfying a final judgment of a court of competent jurisdiction that any provision of this Act or any action taken pursuant to this Act constitutes a taking of private property without just compensation, and of allowing the Wildlife Conservation Board and the Department of Fish and Game to carry out their administrative duties pursuant to this Article and Article V; provided, however, that no more than $32 million may be transferred to the Timber Workers Compensation and Retraining Fund.

Section 4807.7. There shall be transferred into the General Fund in the State Treasury, on the several dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal and interest on the bonds, from the Fund, so far as available therein, amounts equal to all sums so becoming due for principal and interest; if the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be transferred to the General Fund out of the Fund as soon thereafter as it shall become available, together with interest thereon from the remittance dates until so returned at the same rate as borne by the bonds, compounded semiannually.

Section 4807.8. This Fund shall terminate when the Board finds that all proceeds authorized by Section 4807 have been disbursed for the purposes set forth in Section 4807.6, or at the conclusion of the tenth full fiscal year following the effective date of this Act, whichever is sooner, unless extended by a court of competent jurisdiction in resolving litigation brought under, or challenging, this Act; provided that any moneys remaining in the Fund at that time or that are directed to the Fund pursuant to Article VIII of this chapter after that time shall be transferred to the Wildlife Conservation Board, or its successor agency, and used for the purpose of acquiring wildlife habitat in accordance with the Wildlife Conservation Law of 1947 (Chapter 4, commencing with Section 1300 of Division 2 of the Fish and Game Code).

Section 4807.9. The bonds authorized by this Act may be refunded in accordance with Article 6 (commencing with Government Code Section 16780) of the State General Obligation Bond Law. Approval of the authorization of these bonds by the electors includes approval of any bonds issued to refund the bonds originally issued.

Section 4807.10. The people of California hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this Act are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitation imposed by that article.

Section 4807.11. It is the intent of the people of California that the bond revenues authorized by this Act shall not be used to displace any existing sources of funds for purposes authorized by this Act.

Article VII. Employment Program

Section 4808. For the purposes of this Article, the following definitions shall apply unless the context indicates otherwise.

(a) "Department" shall mean the Employment Development Department.

(b) "Affected employer" means a corporation, partnership, joint venture, person, or other form of business entity (including a predecessor or successor by purchase, merger, or other form of acquisition), or working portion or division thereof, which is engaged in the harvest of timber or in related saw mill, plywood, log hauling, or other wood processing operations, and which employs one or more affected employees.

(c) "Affected employee" means a natural person who is either totally or partially laid off or terminated by an affected employer as a direct result of an acquisition of land, or a determination to acquire land, pursuant to the provisions of Article V of this chapter.

(d) "Total layoff" means a calendar month during which an affected employer has made no work available to an affected employee and made no payment to said affected employee for time not worked.

(e) "Partial layoff" means a calendar month during which all pay received [illegible] an affected employee from an affected employer is 80% or less than the amo[illegible] the employee would have received had the employee performed services for [illegible] affected employer on a full-time basis.

Section 4808.1. There is hereby created within the State Treasury the Timber Workers Compensation and Retraining Fund, which is continuously appropriated for carrying out the purposes of this article without regard to fiscal years. Within six months of the effective date of this Act, the Fund shall receive the amount of $22 million, to be derived from the proceeds of bonds issued pursuant to Article VI of this chapter. Upon the issuance of a finding by the Department that additional funds are needed to achieve the purposes of this Article, an additional $10 million dollars from the proceeds of the sale of said bonds shall be transferred to the fund from the Ancient Forest Protection Fund established pursuant to Article VII of this chapter. Said finding shall be made, if at all, not later than eighteen months after the effective date of this Act.

Section 4808.2. Money shall be disbursed from the Timber Workers Compensation and Retraining Fund for the purpose of providing compensation to affected employees during periods of total layoff, partial layoff, or for retraining, or for other purposes consistent with this Article.

Section 4808.3. Upon the conclusion of the fifth full fiscal year following the effective date of this Act, and notwithstanding any other provision of law pertaining to the termination of special funds, unexpended monies remaining in the Timber Workers Compensation and Retraining Fund shall be transferred to the Ancient Forest Protection Fund created pursuant to Article VI of this Act.

Section 4808.4. Not later than six months after the effective date of this Act, the Legislature shall establish a program to compensate affected employees during periods of total or partial layoff and, where necessary, to retrain affected employees for alternative employment. Said program shall be administered by the Employment Development Department, and shall achieve the following goals:

(a) The program shall provide reasonable and fair compensation for all affected employees during periods of total layoff, partial layoff, or following termination. In determining the amount necessary to provide reasonable and fair compensation for a particular employee, the Department shall take into consideration the affected employee's level of compensation prior to layoff or termination, the affected employee's length of service and seniority, the terms of any applicable collective bargaining agreement, and such other matters as the Department shall deem appropriate. The rate of any such compensation, in combination with any unemployment benefits available to an affected employe[illegible] and any salary earned, shall not exceed the affected employee's rate [illegible] compensation prior to layoff or termination. The total compensation available[illegible] any affected employee shall be limited to the employee's actual compensatio[illegible] during the year prior to layoff or termination.

(b) The program shall require the Department to assign its highest priority to assisting affected employees to find alternative employment.

(c) The program shall provide for necessary retraining of affected employees and may, as necessary, provide incentive bonuses for new employers of affected employees during periods of retraining.

(d) The program shall require the Department, to the extent practicable, to find alternative employment for affected employees in occupations emphasizing timber stand improvement, manual conifer release, watershed repair, erosion control, and other occupations which improve and enhance forests and wildlife habitat.

(e) The program shall not discriminate in employment on the basis of age, sex, race, medical condition, physical handicap, creed, color, religion, sexual preference, marital status, or national or ethnic origin, and shall otherwise fully comply with the California Fair Employment and Housing Act.

Article VIII. Penalties and Enforcement

Section 4809. Any person may commence an action against any government agency charged with responsibilities pursuant to this chapter or Chapter 8 of Part 2 for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel said agency to carry out any duty imposed upon it under the provisions of this chapter. Notwithstanding any other provision of law, particularly Section 529 of the Code of Civil Procedure, the plaintiff in such an action shall not be compelled to post more than a nominal bond as a condition of obtaining injunctive relief. Notwithstanding any other provision of law, any person shall have standing to intervene in support of this Act, or any portion of this Act, or the application thereof, in any judicial proceeding in which this Act or any portion thereof is challenged on constitutional grounds; however, notwithstanding any other provision of law, no such intervening party shall be subject to liability for any attorneys' fees or costs awarded to any prevailing party in such action.

Section 4809.1. (a) Any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision, including a failure to act, of any public agency, made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the agency, on the grounds of noncompliance with the provisions of this Act, shall be in accordance with Section 1094.5 of t[illegible] Code of Civil Procedure.

(b) In any action other than one under subsection (a), the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

Section 4809.2. Upon motion, a court shall award attorneys' fees and reasonable litigation expenses, including expert witness and consultant fees, to a

prevailing party that meets the requirements of Section 1021.5 of the Code of Civil Procedure.

Section 4809.3. (a) No action may be brought pursuant to Section 4809.1(a) unless the alleged grounds for noncompliance with this Act were presented to the public agency orally or in writing by any person.

(b) No person shall maintain an action or proceeding pursuant to Section 4809.1(b) unless that person objected to the approval of the project orally or in writing.

(c) This section does not preclude any organization formed after the challenged determination or decision from maintaining an action pursuant to Section 4809.1(b) if a member of that organization has complied with subsection (b).

(d) This section does not apply to the Attorney General.

(e) This section does not apply when there was no public hearing or other opportunity for members of the public to raise objections prior to the approval of the project or when the public agency failed to give the notice required by law.

Section 4809.4. (a) In addition to any other remedy available at law or in equity, any provision of this Act that requires or forbids a private party to take or refrain from action directly affecting the environment or human health may be enforced pursuant to this section. Any person, including any governmental agency, who has violated, is violating, or is threatening to violate any such provision may be enjoined, and a civil penalty may be imposed as provided in Section 4809.5(a), in any court of competent jurisdiction.

(b) An action pursuant to this section may be brought by the Attorney General in the name of the People of the State of California, or by any district attorney, or by any city attorney of a city or city and county having a population in excess of 750,000, or with the consent of the district attorney by any city attorney or city prosecutor.

(c) An action pursuant to this section may be brought by any person acting in the public interest if:

(1) the action is commenced more than sixty days after the person has given written notice of the violation which is the subject of the action to the Attorney General and the district attorney and any city attorney in whose jurisdiction the violation is alleged to occur, and to the alleged violator, and

(2) none of such public officials has commenced and is diligently prosecuting an action against such violation.

The limitations specified in this subsection do not apply to an action brought against a government agency or official.

(d) If a public official undertakes a prosecution pursuant to the written notice described in subdivision (c)(1), before the noticing party brings an action under subdivision (c), the person who gave the notice shall be permitted to intervene in the action on such terms as the court finds appropriate.

(e) In any civil action brought pursuant to this section any prevailing plaintiff and intervenor shall be entitled to share in an appropriate portion of any civil penalty imposed. The court shall divide the portion of civil penalties awarded, taking into account the respective contributions of the parties to the success of the action. An intervenor may also be awarded reasonable attorneys' fees and litigation expenses upon a finding by the court that the efforts of the intervenor substantially assisted the court in reaching a just resolution of the case.

Section 4809.5. (a) In addition to any other penalty imposed by law, any person who conducts, orders or directs timber operations in violation of any provision of this Act shall be subject to a civil penalty in an amount not to exceed fifty thousand dollars ($50,000) for each day of violation. In assessing the amount of the fine, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation has occurred, and the corrective action, if any, taken by the violator. In addition to any other penalties imposed by law, the court may seize and confiscate the proceeds from the sale of illegally harvested trees. If said trees have not yet been sold, the court may order said trees confiscated and sold. The proceeds of the sale of trees pursuant to this subdivision shall be deposited into the Ancient Forest Protection Fund created pursuant to Article VI of this chapter.

(b) For any violation of this Act not specified in subsection (a), and in addition to any other penalty provided by law, a civil penalty may be administratively imposed by the Department of Fish and Game or the Department of Forestry and Fire Protection in an amount which shall not be less than five thousand dollars ($5,000), nor more than ten thousand dollars ($10,000), for each violation of a separate provision, or for continuing violations for each day that the violation continues. Moneys recovered pursuant to this section shall be deposited into the Ancient Forest Protection Fund.

Section 4809.6. It shall be a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in county jail for a period not to exceed six months, or by both such fine and imprisonment, to willfully resist, delay or obstruct any person or agency charged with the responsibility under this Act to inspect, survey, or inventory lands. In the event of a continuing violation, each day during which the violation shall continue shall constitute a separate violation.

Section Three. Sections 730, 731, 731.1, 732, 733 and 736 of the Public Resources Code are hereby amended to read as follows:

Section 730. There is in the department a State Board of Forestry, ~~consisting nine members appointed by the Governor.~~ *Beginning on January 15, 1991, the board shall consist of nine members, five of whom shall be appointed by the Governor and four by the Lieutenant Governor,* subject to confirmation by the Senate.

Section 731. All members of the board shall be appointed and shall be selected and approved for appointment on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience with, problems relating to watershed management (including hydrology and soil science), forest management practices, fish and wildlife, ~~range management,~~ *mycology,* forest economics, ~~or~~ land use planning, *or Native American forest uses.* ~~Five members shall be selected from the general public, three members shall be selected from the forest products industry, and one member shall be selected from the range livestock industry.~~ *Members of the Board meeting the foregoing qualifications shall be appointed as follows:*

(a) The Governor shall appoint two members from the general public; one member from among the officials or employees of an incorporated organization dedicated to preserving the natural environment; one member from among the officials or employees of an incorporated organization dedicated to wildlife preservation; and one member from the forestry or forest products industry.

(b) The Lieutenant Governor shall appoint one member from the general public; one member from among the county supervisors of any of the eight leading timber producing counties, as determined by the State Board of Equalization based on timber tax revenues and federal in-lieu payments, or among the county supervisors or planning commissioners of any county with special forestry rules pursuant to Sections 4516.5 or 4516.8; one member from among timberland owners who own 640 acres or less of timberland; and one member from among the officials or employees of an incorporated organization one of the purposes of which is the acquisition and preservation of land for plant or wildlife habitat.

(c) ~~At no time shall a majority of the members, nor any of the members selected from the general public, be persons with a direct personal financial interest, within the meaning of Section 1120 of the Government Code, in timberlands. All members of the board shall represent the general public interest.~~ *Appointment of Board members meeting the foregoing qualifications shall occur on January 15, 1991.*

Section 731.1. The Legislature declares that some individuals appointed as members of the State Board of Forestry must be chosen from backgrounds in the forest products *industry* ~~and range livestock industries~~ in order to represent and further the interests of *that industry* ~~those industries~~ and that such representation and furtherance serves the general public interest, as specified in Section 731. Accordingly, the Legislature finds that, for purposes of persons who hold such office, the forest products ~~and the range livestock industries are~~ *industry is* tantamount to and ~~constitute~~ *constitutes* the public generally within the meaning of Section 87103 of the Government Code in those decisions affecting the forest products ~~or range livestock industries~~ *industry*, unless the results of their actions taken as board members have a material financial effect on them distinguishable from their effect on other members of ~~their respective industries~~ *the forest products industry* generally.

Section 732. Each member of the board shall hold office for four years from the expiration of the term of his or her predecessor, *except as provided in Section 733*. Vacancies shall be immediately filled by the Governor *or Lieutenant Governor, whoever appointed the member whose seat expired or became vacant, as provided in Section 731*.

Section 733. The members first appointed to the board *after enactment of the Forest and Wildlife Protection and Bond Act of 1990* shall classify themselves by lot so that the term of three members shall expire January 15, ~~1975~~ *1993*, the term of two members shall expire January 15, ~~1976~~ *1994*, the term of two members shall expire January 15, ~~1977~~ *1995*, and the term of two members shall expire January 15, ~~1978~~ *1996*, except that no member, *with the exception of the initial term of the two members whose terms shall expire January 15, 1996,* shall serve for a term in excess of four years without being reappointed and confirmed by the Senate as provided in this article.

Section 736. The board shall maintain its headquarters in Sacramento and shall hold meetings at such times and at such places as shall be determined by it. Five members of the board shall constitute a quorum for the purpose of transacting any business of the board. A majority affirmative vote of the total authorized membership of the board shall be necessary to adopt, amend, or repeal rules and regulations of the board adopted pursuant to Article 4 (commencing with Section 4551) of Chapter 8 of Part 2 of Division 4 *or pursuant to Articles 3 and 4 of Chapter 1 of Part 2.7 of Division 4*. All meetings of the board shall be open to the public.

Section Four. Sections 731.2 and 746 are hereby added to the Public Resources Code to read as follows:

Section 731.2. (a) All members of the board shall represent the general public interest. No member of the board appointed or reappointed after the effective date of the Forest and Wildlife Protection and Bond Act of 1990, except the member from the forestry or forest products industry and the member from among timberland owners who own 640 acres or less of timberland:

(1) may have a financial interest in timberlands or the forestry or the forest products industry;

(2) may have had such an interest for at least five years prior to the member's date of appointment to the board; and

(3) may acquire such an interest for at least three years after his or her membership on the board has ended.

(b) For purposes of this Section, "financial interest" means any interest that could disqualify the member, pursuant to Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code, from any decision that the board has authority to make.

Section 746. If the initiative measure entitled the Environmental Protection Act of 1990 is enacted during the General Election of 1990, and the Environmental Advocate referred to in Title Six of that Act is elected in the General Election of 1992 or thereafter, then all authority or responsibilities assigned to the Lieutenant Governor in this Article shall be exercised by the Environmental Advocate.

Section Five. Section 4513 of the Public Resources Code is hereby amended to read as follows:

Section 4513. It is the intent of the ~~Legislature~~ *People* to create and maintain an effective and comprehensive system of regulation and use of all timberlands so as to assure that:

(a) Where feasible, the productivity of timberlands is restored, enhanced, and maintained.

(b) ~~The goal of maximum sustained production of high-quality timber products is achieved while giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment, and aesthetic enjoyment.~~ *The goal of promoting and maintaining forests that support healthy watersheds, provide habitat for wildlife and fish, and contribute to biological diversity is achieved while providing for the maximum sustained production of high-quality timber products consistent with this goal.*

Section Six. Section 4514.3 of the Public Resources Code is hereby repealed.

~~4514.3. (a) Timber operations conducted pursuant to this chapter are exempt from the waste discharge requirements of Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code; provided, that there is a certification by the federal Environmental Protection Agency that the provisions of this chapter constitute best management practices for silviculture pursuant to Section 208 of the Federal Water Pollution Control Act.~~

~~(b) The exemption contained in subdivision (a) shall not apply when any of the following occurs:~~

~~(1) The board requests issuance of waste discharge requirements.~~

~~(2) There has been a finding by the State Water Resources Control Board that the board has failed to maintain a water quality regulatory process consistent with the certification required under subdivision (a).~~

~~(3) After monitoring the water quality impacts from timber operations conducted in compliance with this chapter, there has been a finding by the State Water Resources Control Board that compliance with best management practices would result in less water quality protection than required in water quality control plans approved pursuant to Section 13245 of the Water Code.~~

Section Seven. Section 4521 of the Public Resources Code is hereby amended to read as follows:

Section 4521. Unless the context otherwise requires, the definitions set forth in this article *and in Article II of Chapter 1 of Part 2.7, commencing with Section 4800,* shall govern the construction of this chapter *and of Chapter 1 of Part 2.7*.

Section Eight. Section 4562.8 is hereby added to the Public Resources Code to read:

Section 4562.8. In addition to the rules provided for in Section 4562.7, all timber operations shall comply with the following minimum requirements:

(a) No timber operations may occur that would have a significant adverse effect on water quality, water temperature, fish habitat, or other beneficial uses of water, or that would cause damage to soil or water resources in violation of state or federal law.

(b) Except where necessary to construct a watercourse crossing, within 100 feet from any Class I watercourse or lake or within 50 feet of any Class II watercourse or lake:

(1) Not more than ten percent, by volume, of all trees may be removed in any twenty year period.

(2) No tractors or other soil-disturbing equipment may be used for the purpose of conducting timber operations.

Notwithstanding subsection (b)(1), in order to retain stream canopy and prevent increases in stream temperature, no trees may be removed within 50 feet of any Class I watercourse or lake except where necessary to construct a watercourse crossing. For purposes of this subsection, distances shall be measured horizontally from the bankfull elevation, defined as the elevation of the one and one-half (1½) year recurrence interval flow of the watercourse.

(c) No landings may be constructed or reconstructed in, and no logs may be yarded into, any watercourse or lake.

(d) No timber operations may occur and no equipment may be used or placed within sixty (60) feet of the periphery of any seep or spring, or that would reduce existing canopy closure for such seep or spring.

Section Nine. Section 4581 of the Public Resources Code is hereby amended to read as follows:

Section 4581. No person shall conduct timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for such operations to the department pursuant to this article. Such plan shall be required in addition to the license required in Section 4571. *No timber operations may be conducted pursuant to a timber harvesting plan except under the supervision of a registered professional forester. The registered professional forester shall assure that timber operations comply with the plan and with all applicable legal requirements.*

Section Ten. Section 4582 of the Public Resources Code is hereby amended to read as follows:

Section 4582. The timber harvesting plan shall be filed with the department in writing by a person who owns, leases, or otherwise controls or operates on all or any portion of any timberland and who plans to harvest the timber thereon. If the person who files the plan is not the owner of the timberland, the person filing the plan shall notify the timberland owner by certified mail that the plan has been submitted and shall certify that mailing to the department. The plan shall be a public record and shall include all of the following information:

(a) The name and address of the timber owner.

(b) The name and address of the timber operator.

(c) A description of the land on which the work is proposed to be done, including a United States Geological Survey quadrangle map or equivalent indicating the location of all streams, the location of all proposed and existing logging truck roads, and indicating boundaries of all site I classification timberlands to be stocked in accordance with subdivision (b) of Section 4561 and any other site classifications if the board establishes specific minimum stocking standards for other site classifications.

(d) A description of the silvicultural methods to be applied, including the type of logging equipment to be used.

(e) An outline of the methods to be used to avoid ~~excessive accelerated~~ erosion from timber operations ~~to be conducted within the proximity of a stream~~.

(f) Special provisions, if any, to protect any unique *fragile, or sensitive areas, including native American cultural sites,* ~~area~~ within the area of timber operations.

(g) The expected dates of commencement and completion of timber operations.

(h) A certification by the registered professional forester preparing the plan that he or she ~~or a designee~~ has personally inspected the plan area.

(i) Any studies, research, or other site-specific information regarding existence of dependent wildlife species, as defined in Section 4803(e), in the ar[ea] subject to the plan.

(j) The total volume of timber, and the total volume of mature timber, that will be logged.

(k) Any other information the board provides by regulation to meet its rules and the standards of this chapter *and Chapter 1 of Part 2.7*.

Section Eleven. Section 4582.7 of the Public Resources Code is amended to read:

Section 4582.7. The director shall have *60* ~~15 days from the date the initial inspection is completed or, in the event the director determines that the inspection need not be made, 15~~ days from the date of filing, ~~as specified in Section 4604,~~ or a longer period mutually agreed upon by the director and the person submitting the timber harvesting plan, to review the plan ~~and take public comments. After the initial review and public comment period has ended, the director shall have up to 10 working days, or a longer period mutually agreed upon by the director and the person submitting the plan, to review the public input, to consider recommendations and mitigation measures of other agencies, to respond in writing to the issues raised, and~~ to determine if ~~the plan~~ *it* is in conformance with *all legal requirements* ~~the rules and regulations of the board and with this chapter~~. If the director determines that the plan is not in conformance with *all legal requirements* ~~the rules and regulations of the board or with this chapter~~, the director shall return the plan, stating his or her reasons ~~in writing,~~ and advising the person submitting the plan of the person's right to a hearing before the board~~, and timber operations shall not commence~~. A person to whom a plan is returned may, within 10 days from the receipt of the plan, request of the board a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if it is in conformance with *all legal requirements* ~~the rules and regulations of the board and this chapter. Timber operations shall await board approval of the plan~~. Board action shall occur within ~~30~~ *45* days from the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal. If the plan is not approved on appeal to the board, the plan may be found to be in conformance by the director within 10 days of board action, provided the plan is brought into full conformance with *all legal requirements* ~~the rules and regulations of the board and this chapter. If the director does not act within 25 days, or a longer period mutually agreed upon by the director and the person submitting the timber harvesting plan, timber operations may commence pursuant to the plan, and all provisions of the plan shall be followed as provided in this chapter.~~ *Final approval of the p[lan] by the director or the board shall be accompanied by a response to significan[t] environmental points raised during the review process. No timber operations of any kind, including but not limited to road construction, may commence prior to thirty (30) days after final approval of the plan by the director or the board.*

Section Twelve. Sections 4582.71 through 4582.76, inclusive, are hereby added to the Public Resources Code as follows:

Section 4582.71. (a) The Department of Fish and Game shall inspect the area in which timber operations are to be conducted and shall determine, within the 60 day review period, whether the timber harvesting plan proposes any timber operations within an ancient forest, as defined in Section 4803(a). The Department shall also identify any seeps, springs, wetlands, or other habitats that may be sensitive to timber operations. If the person submitting the plan refuses to allow the Department reasonable access to the property to make such an inspection, the plan shall be denied.

(b) (1) Notwithstanding Article 5 of Chapter 4.5 of Division 1 of Title 7 of the Government Code or other applicable laws, if the Department determines that the plan proposes timber operations within an ancient forest, the timber harvesting plan review process shall be suspended, and the ancient forest shall be referred to the Wildlife Conservation Board to be considered for acquisition pursuant to Section 4806.

(2) Subsection (1) shall not apply if the Department determines, in writing, that an ancient forest would be a low priority for acquisition, based on all of the factors set forth in Section 4806.5. Such a determination, and the reasons therefor, shall be included in a response to significant environmental points raised.

Section 4582.72. If the Wildlife Conservation Board decides not to acquire an ancient forest referred pursuant to Section 4582.71(b)(1), the director shall proceed to review the timber harvesting plan pursuant to this Article; provided, however, that the full 60 day review period specified in Section 4582.7 shall recommence on the date of the Wildlife Conservation Board's decision.

Section 4582.73. The Department of Fish and Game shall review any timber harvesting plan that proposes timber operations within an ancient forest to determine possible adverse impacts on dependent wildlife species, as defined in Section 4803(e). This authority supplements, and does not supersede, the Department of Fish and Game's existing authority to review timber harvesting plans. The Department of Fish and Game may conduct site inspections or studies in order to exercise its authority under this Section.

Section 4582.74. In reviewing timber harvesting plans the Department of F[ish] and Game may recommend mitigation measures that, based on the best availa[ble] biological data, are reasonably necessary in order to prevent or reduce possib[le] harm to wildlife, including but not limited to dependent wildlife species, or to establish potential habitat for such species. Such mitigation measures may include, but are not limited to, site-specific requirements that live trees, snags, or dead and down wood be retained on the site, or general requirements established pursuant to Section 4806.12(b). Any plan that fails to incorporate such mitigation measures shall not be approved.

Section 4582.76. Sections 4582.71(b) and 4582.72 shall become inoperative when the Ancient Forest Protection Fund terminates, as provided in Section 4807.8.

Section Thirteen. Section 4582.75 of the Public Resources Code is hereby repealed.

~~4582.75. The rules adopted by the board shall be the only criteria employed by the director when reviewing timber harvesting plans pursuant to Section 4582.7.~~

Section Fourteen. Section 4582.9 is hereby added to the Public Resources Code to read as follows:

Section 4582.9. Fees. Within six months of the effective date of this Act, the Department of Forestry and Fire Protection, the Board of Forestry, the Department of Fish and Game, and the Regional Water Quality Control Boards shall adopt fee schedules to cover their reasonable program costs in reviewing timber harvesting plans or taking any other action required by this chapter or Chapter 1 of Part 2.7 pertaining to the review of a timber harvesting plan. Every person submitting a timber harvesting plan shall pay the fees imposed by said schedules to such agencies. Fees shall increase in proportion to both the timber volume proposed to be removed and to the acreage of land upon which timber is proposed to be harvested.

Section Fifteen. Section 4583.5 of the Public Resources Code is hereby amended to read as follows:

Section 4583.5. If the board finds that the registered professional forester has made any material misstatement in the filing of any timber harvesting plan, *sustained yield plan* or report under this chapter *or Chapter 1 of Part 2.7, or has failed to comply with Section 4581,* it shall take disciplinary action against him *or her* as provided under Section 775.

Section Sixteen. Section 4650.1 of the Public Resources Code is amended to read:

Section 4650.1. *(a)* Notwithstanding any other provision of law, timber from state forests shall not be sold to any primary manufacturer, or to any person for resale to a primary manufacturer, who ~~makes~~ *does either of the following:*

(1) ~~use of such~~ *Uses that* timber at any plant not located within the United States, unless it is sawn on four sides to dimensions not greater than 4 inches by 12 inches.

(2) Sells any logs harvested from private timberlands in California for foreign export or processes those logs at manufacturing facilities located outside the United States.

(b) Any purchaser of timber from state forests who makes use of ~~such~~ timber in violation of ~~this section~~ *paragraph (1) of subdivision (a)* ~~shall be~~ *is* prohibited from purchasing state forest timber for a period of five years and may have his *or her* license suspended for a period of up to six months.

(c) The department may adopt appropriate regulations to prevent the substitution of timber from state forests for timber exported from private timberlands.

Section Seventeen. Section 10295.5 is added to the Public Contract Code, to read:

Section 10295.5. (a) The State of California shall not purchase lumber or other forest products from any person or corporation, or from any manufacturer who obtains timber or other forest products from any person or corporation, which sells logs harvested within the state for foreign export or processes timber harvested within the state at facilities located outside of the United States.

(b) The State of California shall not enter into any contract, the performance of which requires any contractor thereto to purchase lumber or other forest products, unless such contract provides that such contractor shall not purchase lumber or other forest products from any person or corporation, or from any manufacturer who obtains timber or other forest products from any person or corporation, which sells logs harvested within the State for foreign export or processes timber harvested within the state at facilities located outside of the United States.

(c) The Department of General Services shall revise its procedures and procurement specifications for state purchases of lumber and other forest products to ensure compliance with this Section.

Section Eighteen. Section 12650.1 is hereby added to the Government Code, to read:

Section 12650.1. The term "services," as used in Section 12650(a), is defined to include a request for the exercise of governmental authority, such as the issuance, continuation, or approval of a permit, including but not limited to the approval of a timber harvesting plan pursuant to Section 4582.7 of the Public Resources Code.

Section Nineteen. Liberal Interpretation. The provisions of this Act shall be liberally interpreted in order to give effect to its purposes.

Section Twenty. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Act which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Act are severable.

Section Twenty-One. Existing Laws and Regulations. Nothing in this Act shall be interpreted to affect regulations adopted pursuant to Sections 4516, 4516.5, and 4516.8 of the Public Resources Code that are stricter than the minimum standards set forth or authorized in this Act.

Section Twenty-Two. Conflicting Law. In the event that this measure and another measure or measures which would in whole or in part affect forest practices or authorize issuance of bonds for the purpose of acquiring ancient forests or redwoods appear on the ballot at the election of November 6, 1990, and this measure receives a greater number of affirmative votes than said other measures, proceeds of any bond sale authorized by said other measure for the purpose of acquiring ancient forests or redwoods shall be deposited into the Ancient Forest Protection Fund created in Article VI of Section Two of this measure, and this measure shall prevail to the extent of any conflict between the measures. In the event that said other measure or measures shall receive a greater number of affirmative votes than this measure, the provisions of this measure take effect to the extent permitted by applicable law. This measure is inconsistent with all of the terms of the Global Warming and Clearcutting Reduction, Wildlife Protection and Reforestation Act of 1990 and the Reforestation, Wildlife and Timber Management Act of 1990. If this initiative and either of said measures pass by majorities voting thereon and this measure receives a greater number of affirmative votes than said other measures, then said other measures shall be of no force and effect.

Section Twenty-Three. Amendment. This Act may be amended by statute, passed in each house by roll-call vote entered into the journal, two-thirds of the membership concurring, and signed by the Governor, if at least twelve days prior to passage in each house the bill in its final form has been distributed to the news media and to every person who has requested that copies of such legislation be sent to him or her; provided, however, that any such amendment shall further the purposes and intent of this Act; and further provided that the Legislature may not reallocate any funds authorized by this Act or amend, revoke, or repeal Article VIII of Chapter 1 of Part 2.7 of Division 4 of the Public Resources Code in any respect.

Proposition 131: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending sections thereof, amends, repeals, and adds sections to the Government Code; amends sections of the Insurance Code; and adds and repeals sections of the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

TITLE I.

FINDINGS AND PURPOSE

SECTION 1. This measure shall be known as "The Clean Government Initiative".

SECTION 2. Findings and Purposes.

The people of the State of California find and declare:

(a) California governmental institutions are undergoing a crisis in confidence. Comprehensive reform is necessary to restore public confidence in the integrity of elected officials, to ensure that governmental decisionmakers are beholden to the public interest, rather than the special interests, to strengthen the enforcement of existing laws prohibiting government officials from conducting public business in private and engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities, and to re-invigorate the electoral and political processes;

(b) Electoral competition has declined so dramatically that state officials, once elected, hold virtually a life-time lock on state office, with the result that citizen interest and participation in the political process have dropped to record low levels. Limitations on consecutive service in the same elective office must be imposed in order to infuse competition into the electoral process and new ideas into governmental decisionmaking;

(c) Campaign spending for elective offices has escalated to dangerous levels, forcing many candidates and officeholders to raise enormous amounts of money from interest groups with a specific financial stake in matters before government officials and creating the public perception that elected officers' votes and decisions are improperly influenced by large monetary contributions;

(d) Candidates and officeholders must be provided with a neutral source of campaign financing, one that is tied to their ability to attract support from electoral constituents, so that they need not be entirely dependent upon wealthy, special-interest contributors to raise enough money to communicate their views to the public;

(e) Because the acceptance of gifts and honoraria by public officials raises legitimate concerns over undue influence of wealthy private interests and the potential misuse of office for personal financial gain, the receipt of gifts and honoraria should be restricted and limited to those situations in which the likelihood of any conflict of interest arising is extremely remote;

(f) The assets and income of all elected state officials should be adequately disclosed and in appropriate circumstances the officials should be disqualified from acting so as to avoid potential conflicts of interest between their private financial interest and the broader public interest;

(g) Former state government officials should be restricted from returning to lobby their former agencies or those with whom they exerted significant influence so that the credibility and independence of the government's decisionmaking process are protected from undue influence;

(h) State officials stand in a fiduciary relationship with the public and must confine their use of public funds to those public purposes authorized by law; and

(i) Existing enforcement mechanisms must be strengthened to provide better coordination of investigations and prosecutions of allegations of public corruption, and the public must be assured that prosecutorial decisions are not influenced by political or other improper considerations.

(j) The people's right to enact legislation through the initiative process provides the ultimate check on the accountability of public officials. Accordingly, the people's right to initiate legislation governing the ethical conduct of their elected representatives must be preserved and jealously safeguarded.

TITLE II.

LIMITATION ON TERMS OF STATE ELECTIVE OFFICERS

SECTION 3. Article V, Section 2 of the State Constitution is amended to read:

SEC. 2. *(a)* The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding the Governor's election. The Governor may not hold other public office.

(b) No person who has been elected to the office of Governor for two successive terms, both of which commence after November 7, 1990, shall again be eligible to hold that office until one full term has intervened.

SECTION 4. Article V, Section 11 of the State Constitution is amended to read:

SEC. 11. *(a)* The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor.

(b) No person who has been elected to the office of Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer for two successive terms, both of which commence after November 7, 1990, shall again be eligible to hold that same office until one full term has intervened.

SECTION 5. Article IX, Section 2 of the State Constitution is amended to read:

SEC. 2. *(a)* A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election.

(b) No person who has been elected to the office of Superintendent of Public Instruction for two successive full terms, both of which commence after November 7, 1990, shall again be eligible to hold that office until one full term has intervened.

SECTION 6. Article XIII, Section 17 of the State Constitution is amended to read:

SEC. 17. *(a)* The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The state shall be divided into four Board of Equalization districts with the voters of each district electing one member.

(b) No person who has been elected to the office of member of the Board of Equalization for three successive terms, each of which commence after November 7, 1990, shall again be eligible to hold that office until one full term has intervened.

SECTION 7. Article IV, Section 2 of the State Constitution is amended to read:

SEC. 2. *(a)* The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every ~~2~~ *two* years. The Assembly has a membership of 80 members elected for 2-year terms. Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) No person who has been elected to the office of member of the Assembly for six successive full terms, all of which commence after November 7, 1990, shall again be eligible to hold that office until one full term has intervened. No person who has been elected to the office of member of the Senate for three successive full terms, all of which commence after November 7, 1990, shall again be eligible to hold that office until one full term has intervened.

~~(d)~~ *(e)* When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

SECTION 8. Section 12900 of the Insurance Code is amended to read:

12900. (a) The ~~commissioner~~ *Commissioner* shall be elected by the People in the same time, place and manner and for the same term as the Governor.

(b) No person who has been elected to the office of Insurance Commissioner for two successive full terms of office shall again be eligible to hold that office until one full term has intervened.

TITLE III.

GIFTS AND HONORARIA

SECTION 9. Section 8 of Article II of the State Constitution is amended to read:

SEC. 8. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.

(e) Notwithstanding any other provision of this constitution, in addition to the legislative power vested in the California Legislature, the people reserve to themselves the power to propose and adopt initiative statutes strictly limiting public officials from accepting gifts and honoraria or otherwise engaging in activities or having interests which might conflict with the proper discharge of their official duties and responsibilities. This provision is declaratory of existing law and shall not be interpreted to limit in any manner the scope of the reserved power of the initiative.

SECTION 10. Section 87104 is added to the Government Code, to read:

87104. Honoraria

(a) No elected officer shall accept an honorarium. The term "honorarium" means a payment for any speech, article, published work, public address, oral presentation, appearance, participation or attendance at any panel, conference, or meeting, or other similar activity.

(b) For the purposes of this section, the term "honorarium" does not include:

(1) a payment received for lecturing or teaching at a bona fide public or private institution which is organized and operated exclusively for educational purposes.

(2) a copyright royalty or other payment received in the normal course of business from a publishing house for the publication of a book or an article written by the elected officer.

(c) This section shall not prohibit an elected officer from accepting:

(1) travel expenses or reimbursement for travel expenses within the state of California, including related lodging and reasonable subsistence expenses, if the expenses are directly related to the elected officer's speech, appearance, or participation at any panel, meeting or conference, provided that (a) the lodging expenses are limited to the day preceding and the day(s) of the event which occasioned the travel and (b) the subsistence expenses are limited to the day before the event and that portion of the day immediately following the event that precedes the elected officer's departure.

(2) travel expenses or reimbursement for travel expenses outside the state of California, including related lodging and reasonable subsistence expenses, if the expenses are directly related to the elected officer's speech, appearance, or participation at any panel, meeting or conference, provided that (a) the lodging expenses are limited to the day preceding and the day(s) of the event which occasioned the travel, (b) the subsistence expenses are limited to the day before the event and that portion of the day immediately following the event that precedes the elected officer's departure, (c) the travel serves a governmental or educational purpose, and (d) the expenses are paid only by a governmental agency or a bona fide educational or bona fide charitable institution.

(d) The elected officer accepting travel expenses or reimbursement for travel expenses has the burden of proving that such payments satisfy the requirements of subsection (c). Any travel expenses received or reimbursed under subsection (c), excepting the officer's pro rata share of meals or beverages served in conjunction with the event, shall be disclosed on the elected officer's statement of economic interests in accordance with Article 2 (commencing with Section 8720[illegible]) of Chapter 7.

(e) Any additional travel expenses to, and any lodging or subsistence expenses in, a separate location removed from the location of the travel authorized under subsection (c) which are incurred prior to returning to the point of origin and which are paid or reimbursed by a third party shall be considered a gift subject to the restrictions of Section 87105.

(f) Notwithstanding subdivisions (b) and (c), no elected officer shall accept any payment from a lobbyist or lobbying firm for lecturing, teaching, or travel expenses.

SECTION 11. Section 87105 is added to the Government Code, to read:

87105. Gifts

(a) No elected officer shall accept a gift or gifts aggregating one hundred dollars ($100) or more in value in a calendar year from any single source.

(b) For purposes of this section, "gift" means, except as provided in subdivision (d), any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(c) For purposes of this section, any gift to the spouse or immediate family of an elected officer, including any travel expenses, food or beverage provided to the family member, shall be deemed a gift to the officer unless it is clear from the surrounding circumstances that the gift to the family member was made for reasons independent of the family member's relationship to the elected officer.

(d) For purposes of this section, the term "gift" does not include any of the following:

(1) Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, partner in a bona fide dating relationship, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100) of this title.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars ($250).

(7) Gifts of hospitality involving food, beverages or occasional lodging

provided by an individual in his or her home to an elected officer.

(8) Gifts exchanged between an elected officer and another individual, other than a lobbyist, on holidays, birthdays, weddings, or similar occasions, provided that the gifts received by the elected officer are substantially equal in value to the gifts the elected officer gives.

(9) Gifts of transportation, lodging, and reasonable subsistence expenses to the extent permitted by subdivisions (c) and (f) of Section 87104.

(e) Any donation to a legal defense fund established pursuant to Section 87106 and required to be reported in accordance with Chapter 4 (commencing with Section 84100) of this title shall be exempt from the limitation set forth in subsection (a).

(f) Nothing in subsection (d) shall be construed to eliminate or otherwise alter any disclosure requirement imposed by Article 2 (commencing with Section 87200) of this chapter with respect to any item enumerated in that subsection.

(g) The one hundred dollar ($100) limitation specified in subsection (a) shall be adjusted by the Commission on January 1st of every odd-numbered year to reflect changes in the California Consumer Price Index - All Urban Consumers (CPI-U) since January 1, 1991, provided that any such adjustments shall be rounded off to the nearest ten dollars ($10).

SECTION 12. Section 87106 is added to the Government Code, to read:

87106. Legal Defense Funds

(a) Notwithstanding Section 85301, a candidate or elected officer may establish a separate legal defense fund and account to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or officer's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the officer's governmental activities and duties.

(b) Any candidate or elected officer wishing to establish a legal defense fund account pursuant to this section shall file a statement of organization for the legal defense fund pursuant to Section 84101. The legal defense fund shall be named "The [Name of Candidate or Officeholder] Legal Defense Fund." The statement of organization shall identify the specific civil, criminal, or administrative proceeding or proceedings for which the legal defense fund is established and shall conform to the requirements of Sections 84102–84104.

(c) The legal defense fund shall establish a single account at an office of a financial institution located in the state of California, and all donations to the candidate or elected officer for his or her legal defense shall be deposited into that account.

(d) Only donations that are specifically designated by the donor as being for the legal defense fund may be deposited into the legal defense fund account. All such donations must be made payable to the legal defense fund, and no donation that is not specifically made payable to the legal defense fund may be deposited into the legal defense fund account, provided that nonmonetary donations may be received and used for purposes directly related to the legal defense for which the fund is established if the donor specifically designates in writing that the donation has been made for such purposes.

(e) Notwithstanding any other provision of law, any donation to a legal defense fund and account established pursuant to this section shall, for the purposes of this article (commencing with Section 87100), be deemed a gift to the candidate or officer for whose benefit the legal defense fund has been established, and any contributor to the legal defense fund shall be considered a donor of a gift to the candidate or officer for the purposes of Section 87103. A donation to a legal defense fund by any sponsored committee, as specified in Section 82048.7, shall be deemed a gift from both the committee and the sponsor or sponsors of the committee. For the purposes of applying the disqualification provisions of this article to donations to legal defense funds, an identifiable industry, trade, or profession does not constitute a significant segment of the public. A donation to a legal defense fund by a committee whose primary purpose is to promote the economic interests of a single industry, trade, or profession shall be deemed to create in the candidate or officer for whose benefit the fund has been established a financial interest in any decision that will reasonably foreseeably have a material financial effect on a significant number of the members of that industry, trade, or profession.

(f) No person, political committee, small-contributor political action committee, or political party committee shall make, and no legal defense fund committee shall solicit or accept from each such person, political committee, small-contributor political action committee, or political party committee, a donation or donations totaling more than two thousand five hundred dollars ($2,500) per two-year election cycle.

(g) Expenditures from the legal defense fund account shall be made only for legal defense costs directly related to the civil, criminal, or administrative proceeding or proceedings for which the legal defense fund is established. However, in no event shall any expenditures from the legal defense fund account be used to pay or reimburse any fines, penalties, judgments, or settlements in connection with any criminal prosecution or any civil or administrative action in which the candidate or elected officer is found to have committed, or admits to, an intentional or grossly negligent violation of the law.

(h) No funds may be transferred from the legal defense fund to any other committee. Surplus funds remaining in the legal defense fund account after the proceeding or proceedings for which the account is established have concluded may be used for no other purpose and shall be returned to donors on a pro rata basis within six months after the final conclusion of the proceeding or proceedings.

(i) The legal defense fund shall file disclosure statements containing the same information and at the same time that the candidate or officer files his or her campaign disclosure statements pursuant to Chapter 4 of this title (commencing with Section 84100). Any payments made by the candidate or officer from his or her personal funds for legal defense purposes shall be reported in the legal defense fund disclosure statements as nonmonetary donations.

(j) Except as specifically provided elsewhere in this section, a donation to a legal defense fund and account established pursuant to this section shall not be considered a campaign contribution and shall not be subject to the campaign contribution limitations contained in Chapter 5 (commencing with Section 85100) of this title. This section shall constitute the sole means for soliciting or accepting donations for legal defense costs free of the campaign contribution limitations contained in Chapter 5, and any other provision of law exempting such donations from the campaign contribution limitations in that chapter is hereby superseded and nullified.

SECTION 13. Section 87203 of the Government Code is amended to read:

87203. *(a)* Every person who holds an office specified in Section 87200 shall, each year at a time specified by commission regulations, file a statement disclosing his *or her* investments, his *or her* interests in real property and his *or her* income during the period since the previous statement filed under this section or Section 87202. The statement shall include any investments and interest in real property held at any time during the period covered by the statement, whether or not they are still held at the time of filing.

(b) Every elected state officer shall file, by a date six months after the time specified in subdivision (a), an additional statement disclosing his or her investments, his or her interests in real property, and his or her income since the previous statement filed under subdivision (a).

TITLE IV.
CONFLICT OF INTEREST

SECTION 14. Section 87102 of the Government Code is amended to read:

87102. *(a)* The requirements of Section 87100 are in addition to the requirements of Articles 2 and 3 of this chapter and any Conflict of Interest Code adopted thereunder. ~~However~~ *Except as provided in subdivision (b),* the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to ~~elected state officers~~ *Members of the Legislature* for violations or threatened violations of this article.

(b) The remedies provided in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000) shall apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use his or her official position to influence any of the following governmental decisions in which the Member knows or has reason to know that he or she has a financial interest, as specified in Section 87103:

(1) Any nonlegislative state governmental decision.

(2) Introduction as author or co-author of a bill, resolution, or constitutional amendment.

(3) Any vote in a legislative committee or subcommittee, except that in a fiscal committee or subcommittee this subdivision shall apply only to a vote on any special or local legislation.

(4) Any rollcall vote on any special or local legislation on the Senate or Assembly floor.

This subdivision shall not apply to votes on a consent calendar item, on a motion for reconsideration, on a waiver of any legislative rule, or any other purely procedural matter.

(c) For purposes of subdivision (b), all of the following apply:

(1) "Nonlegislative state governmental decision" means a state governmental decision which does not relate to a bill, resolution, or constitutional amendment.

(2) "Special or local legislation" means legislation that is not of a general nature for purposes of Section 16 of Article IV of the California Constitution. Special or local legislation shall be deemed to have an effect which is distinguishable from the effect on the public generally.

(3) A Member of the Legislature is presumed to have reason to know that he or she has conflict of interest with respect to a bill, resolution, or constitutional amendment before a legislative committee or subcommittee if the facts establishing the conflict of interest (other than the facts as to the legislator's income, investments, or interests in real property) are disclosed in any analysis that is prepared by legislative staff and is made available to the Member prior to his or her vote. For purposes of this paragraph, the legislative committee or subcommittee shall make a reasonable effort to determine and highlight in its analysis of a bill, resolution, or constitutional amendment, the instances in which there is a conflict of interest.

(4) A Member of the Legislature is presumed to have reason to know that he or she has a conflict of interest with respect to a vote on the Assembly or Senate floor if the facts establishing the conflict of interest (other than the facts as to the legislator's income, investments, or interests in real property) are disclosed in any floor analysis that is prepared by legislative staff and is made available to the Member prior to his or her vote. For purposes of this paragraph, the legislative staff shall make a reasonable effort to determine and highlight in its analysis of a bill, resolution, or constitutional amendment, the instances in which there is a conflict of interest.

(5) The length of the legislative agenda at the time any legislation was being considered shall be taken into account in determining whether a Member of the Legislature knew or should have known that he or she had a conflict of interest.

(d) The Legislative Counsel shall designate in the digest of each bill, resolution, or constitutional amendment whether it is "special or local" legislation for purposes of this section. The Commission shall establish guidelines to aid the Legislative Counsel in determining whether legislation should be deemed "general" in that it applies equally to all persons embraced in a class founded upon some natural, intrinsic, or constitutional distinction, or "special or local" in that it confers a particular privilege or imposes special conditions on a selected class of otherwise similarly situated persons.

(e) In any instance in which a Member abstains from voting on a bill, resolution, or constitutional amendment because he or she has a conflict of interest (whether in a legislative committee or subcommittee, or on the Assembly or Senate floor), the Member shall so indicate, and the number of members required to pass the measure or to report it out of the committee or subcommittee shall consist of a majority of the remaining, qualified members. This subdivision shall not apply to floor votes on any measure requiring concurrence by more than a simple majority of the membership.

(f) Neither this section nor Section 87100 shall prevent any member of the Legislature from voting on a bill establishing the compensation of members of the Legislature in accordance with Article IV, Section 4 of the state Constitution.

SECTION 15. Section 87101 of the Government Code is amended to read:

87101. *Legally Required Participation in Governmental Decision*

~~Section~~ *Sections* 87100 *and 87102* ~~does~~ *do* not prevent any public official from making or participating in the making of a governmental decision to the extent his *or her* participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his *or her* participation legally required for purposes of this section.

SECTION 16. Article IV, Section 8 of the State Constitution, as amended by Proposition 109 at the June 5, 1990 Primary Election, is further amended to read:

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) The Legislature ~~may~~ *shall* make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house *eligible to vote* concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the state, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

TITLE V.
RESTRICTION ON PERSONAL USE OF CAMPAIGN FUNDS

SECTION 17. Section 85800 of the Government Code is amended to read:

85800. (a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees, committees opposed to a candidate or measure, political action committees, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b) (1) For purposes of this chapter, "campaign funds" includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, "substantial personal benefit" means an expenditure of campaign funds which results in a ~~direct~~ personal benefit with a value of more than ~~one hundred~~ *twenty-five* dollars ~~($100)~~ *($25)* to a candidate or elected officer.

(3) For purposes of this article, "household" includes the candidate's or elected officer's spouse, dependent children, and parents who reside with the candidate or elected officer.

SECTION 18. Section 85802 of the Government Code is amended to read:

85802. The following provisions ~~govern the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that these provisions~~ shall guide the interpretation of the standard imposed by Section 85801 as applied to other expenditures not specifically set forth below.

(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or employees or staff of the campaign committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet ~~standards similar to~~ the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(2) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling *within California* to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(3) For the purposes of this section, payments or reimbursement for travel by the spouse of a candidate or elected officer when traveling outside California to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(4) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported as required by paragraph (7) of subdivision (j) of Section 842

(b) Campaign funds shall not be used to pay for or reimburse the cost professional services unless the services are directly related to a political, legislative, or governmental purpose.

(1) Expenditures by a campaign committee to pay for professional services reasonably required by the campaign committee to assist it in the performance of its administrative functions are directly related to a political, legislative, or governmental purpose.

(2) Campaign funds shall not be used to pay health-related expenses for a candidate, elected officer, or members of his or her household. "Health-related expenses" include, but are not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors, expenses ~~or~~ *for* medications, treatments or medical equipment, expenses for hospitalization, health club dues, and special dietary foods. However, campaign funds may be used to pay employer costs of health care benefits for a member of the candidate's or elected officer's household who is a bona fide employee of the campaign committee.

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements~~, except those~~ resulting from ~~either~~ *any* of the following:

(1) *A criminal prosecution, including traffic citations, except for parking* ~~Parking~~ citations incurred in the performance of an activity which was directly related to a political, legislative, or governmental purpose.

(2) *A civil or administrative action in which the candidate or officeholder is found to have committed or admits to an intentional or grossly negligent violation of law.*

(3) Any other action for which payment of attorney's fees from ~~contributions~~ *campaign funds* would *not* be permitted pursuant to this title.

(d) Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including, but not limited to, formal wear, where this attire is to be worn by the candidate or elected officer and is directly related to a political, legislative, or governmental purpose.

(e) Except where otherwise prohibited by law, campaign funds may be used to purchase or reimburse for the costs of purchase of tickets to political fundraising events for the attendance of a candidate, elected officer, his or her immediate family, and employees or staff of the campaign committee and the elected officer's governmental agency.

(1) Campaign funds shall not be used to pay for or reimburse for the costs of tickets for entertainment or sporting events for the candidate, elected office[illegible] members of his or her immediate family unless their attendance at the eve[illegible] directly related to a political, legislative, or governmental purpose.

(2) The purchase of tickets for entertainment or sporting events for the benefit of persons other than the candidate, elected officer, or his or her immediate family are governed by subdivision (f).

(f) (1) Campaign funds shall not be used to make personal gifts unless the gift is directly related to a political, legislative, or governmental purpose. In the case of a public employee, compensation received from a public agency shall constitute full and adequate consideration for all services performed in connection with the public employment. The refund of a campaign contribution does not constitute the making of a gift.

Nothing in this section shall prohibit the use of campaign funds to reimburse or otherwise compensate a public employee for services rendered to a candidate or campaign committee while on vacation, leave, or otherwise outside of compensated public time.

(2) An election victory celebration or similar campaign event, or gifts totaling less than one hundred dollars ($100) in a calendar year made to an employee or a campaign committee worker, or to an employee of the elected officer's agency, are considered to be directly related to a political, legislative, or governmental purpose.

(g) Campaign funds shall not be used to make loans other than to organizations pursuant to Section 85803.

SECTION 19. Section 85802.5 of the Government Code is amended to read:

85802.5. ~~(a)~~ Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where *(1)* the litigation arises directly out of ~~a candidate's or elected officer's activities, duties, or status as a candidate or elected officer,~~ *the conduct of a campaign or election process,* including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for ~~a~~ violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount, *or (2) the litigation arises directly out of the performance of an elected officer's legislative or governmental duties.*

~~(b) This section shall become operative only if Senate Bill 881 of the 1989/90 Regular Session is not chaptered and does not take effect on or before January 1, 1990.~~

SECTION 20. Section 85806 of the Government Code is amended to read:

85806. Campaign funds shall not be used to compensate a candid[illegible] elected officer for the performance of political, legislative, or governm[illegible] activities, except for reimbursement, made pursuant to Section ~~85801,~~ *85301,* [illegible] out-of-pocket expenses incurred for political, legislative, or governmental purposes.

SECTION 21. Section 85807 of the Government Code is repealed.

~~85807. Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the~~

~~former candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to the requirements of Chapter 4 (commencing with Section 84100) and shall be made only for the following purposes:~~

~~(a) The payment of outstanding campaign debts or elected officer's expenses.~~

~~(b) The pro rata repayment of contributions.~~

~~(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax/exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.~~

~~(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office.~~

~~(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.~~

TITLE VI.
"REVOLVING DOOR" LOBBYING RESTRICTIONS

SECTION 22. Section 87401 of the Government Code is amended to read:

87401. *(a)* No former state administrative official, after the termination of his or her employment or term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof ~~by making any formal or informal appearance, or~~ by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial, or other proceeding if both of the following apply:

~~(a)~~ *(1)* The State of California is a party or has a direct and substantial interest.

~~(b)~~ *(2)* The proceeding is one in which the former state administrative official participated.

(b) No designated employee, as defined in Section 82019, of the executive branch of state government or member of any state board or commission, for 12 months after leaving employment, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California or any state or local government agency) before an agency of the executive branch of state government or any official thereof, by making any formal or informal appearance, or by making any oral or written communication, if both of the following apply:

(1) The agency is one for which the employee or member worked for at least one month during the 12 months before leaving state service, or is one with which the employee or member has had significant decisionmaking influence during the 12 months before leaving state service. The Governor's Chief of Staff and the Director of the Department of Finance shall be presumed to have had significant decisionmaking influence with any state agency which is subject to the direction and control of the Governor.

(2) The appearance or communication is made for the purpose of influencing administrative or legislative action by the agency or official, including, but not limited to, any action by the agency or official to influence legislative action.

(c) No Member of the Legislature, for 12 months after the termination of his or her term of office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California or any state or local government agency) before any committee of the Legislature or any member thereof, by making any formal or informal appearance, or by making any oral or written communication, if the appearance or communication is made for the purpose of influencing legislative action by the committee or member, including, but not limited to, any action by the committee or member to influence legislative action.

(d) No designated employee of the Legislature, for 12 months after leaving employment, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California or any state or local government agency) before a committee of the Legislature or a member thereof, by making any formal or informal appearance, or by making any oral or written communication, if both of the following apply:

(1) The committee or member is one for which the employee worked for at least one month during the 12 months before leaving state service, or is one with which the employee has had significant decisionmaking influence during the 12 months before leaving state service. An employee of a committee shall be presumed to have had significant decisionmaking influence with the members of the committee.

(2) The appearance or communication is made for the purpose of influencing legislative action by the committee or member, including, but not limited to, any action by the committee or member to influence legislative action.

(e) No person holding statewide elective office, for 12 months after leaving office, shall for compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California or any state or local government agency) before any state agency or official thereof, by making any oral or written communication with the intent to influence any action by the agency or official, unless the appearance or representation is in connection with a judicial or quasi-judicial proceeding on a matter in which the person formerly holding statewide elective office did not participate. In no event shall a person holding statewide elective office, for 12 months after leaving office, act for compensation as agent or attorney for, or otherwise represent, any other person (other than the State of California or any state or local government agency) before the state agency or department in which he or she served.

SECTION 23. Section 87402 of the Government Code is amended to read:

87402. No former state administrative official, *person holding statewide elective office, designated employee of the executive branch, member of a state board or commission, designated employee of the Legislature, or Member of the Legislature,* after the termination of his or her employment or term of office shall for compensation aid, advise, counsel, consult, or assist in representing any other person (except the State of California) in any proceeding in which the official would be prohibited from appearing under Section 87401.

TITLE VII.
PROHIBITION ON PERSONAL OR POLITICAL USE OF STATE RESOURCES

SECTION 24. Section 8314 is added to the Government Code, to read:

8314. (a) It shall be unlawful for any elected state officer, appointee, employee, or consultant, to use or permit others to use state resources for personal, political, or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include an occasional telephone call, or an incidental and minimal use of state resources, such as equipment or office space, for personal purposes.

(2) "Political purpose" means those activities the purpose of which is to influence voters with regard to a candidate or ballot measure election. Those activities include activities commonly associated with conducting a political campaign, such as fundraising, mailings, organizing campaign meetings and appearances, preparing position papers and speeches for use in a campaign, and planning campaign strategy. Those activities do not include the incidental use of state resources to refer unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "State resources" means any state property or asset, including, but not limited to, state land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state compensated time.

(4) "Use" means a use of state resources which is substantial enough to result in a gain or advantage to the user or a loss to the state for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of state resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any district attorney or any elected city attorney for violations committed within their jurisdiction. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section shall be commenced more than four years after the date the alleged violation occurred.

TITLE VIII.
SPECIAL PROSECUTOR

SECTION 25. Article 2.5 (commencing with Section 12530) is added to Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 2.5. Special Investigation and Prosecution Unit

12530. As used in this article:

(a) "State officer" means the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Insurance Commissioner, Superintendent of Public Instruction, judges, court commissioners, Members of the Legislature, Members of the State Board of Equalization, and every member, officer, or consultant of a state office, department, division, bureau, agency, board or commission.

(b) "Local officer" means any person who holds any regional, county, municipal or district elective office, and every member, officer, employee, or consultant of a county, city, city and county, or district of any kind, including a school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission, or other agency of the foregoing.

12531. (a) There is in the office of the Attorney General the Special Investigation and Prosecution Unit, which is authorized to establish a statewide program for coordinating the investigation and prosecution, either through criminal or appropriate civil action, of alleged criminal or civil violations of law by state officers or candidates for elective state office, committed in the discharge of their official duties or contrary to their official duties, or in their conduct relating to any political campaign.

(b) Local law enforcement and prosecution agencies shall have concurrent jurisdiction with the Special Investigation and Prosecution Unit to investigate and prosecute violations of law referred to in this section. The appropriate district attorney or district attorneys shall have the initial responsibility of determining whether these violations shall be prosecuted.

(c) The Special Investigation and Prosecution Unit may advise and assist local law enforcement and prosecution agencies in the investigation and prosecution of local officers and candidates for local elected office who are alleged to have committed criminal or other unlawful acts in the discharge of their official duties or contrary to their official duties or in their conduct relating to political campaigns.

12532. (a) When the Attorney General determines in the interest of justice or because of a conflict of interest that the Attorney General should not investigate or prosecute alleged criminal or civil violations by state officers, or candidates for elected state office, the Attorney General may request the appointment of a special prosecutor to conduct the investigation, and if necessary, the prosecution.

(b) The request for the appointment of a special prosecutor shall be made to the court of appeal that has jurisdiction over the county or counties in which the unlawful acts are alleged to have occurred.

(c) Upon request by the Attorney General, the court of appeal shall appoint a

special prosecutor from the office of an incumbent district attorney. No person from the office of the district attorney of the county in which the unlawful acts are alleged to have occurred shall be appointed as the special prosecutor.

(d) A special prosecutor appointed pursuant to this article may be removed from office only by the personal action of the Attorney General, and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the special prosecutor's duties.

(e) All expenses reasonably incurred by the appointed special prosecutor shall be paid by the Department of Justice.

12533. The Attorney General shall submit a report to the Legislature by October 1 of each year on the resolution of complaints filed with the Attorney General and district attorneys which allege criminal or other violations of the law by state officers or candidates for state office, committed in the discharge of their official duties or contrary to their official duties, or in their conduct relating to any political campaign.

12534. Commencing July 1, 1991, and every July 1 thereafter, there is hereby appropriated from the General Fund to the Office of the Attorney General the sum of one million two hundred thousand dollars ($1,200,000), adjusted annually in the same manner as the state appropriation limitation is adjusted under Sections 1 and 8 of Article XIIIB of the state Constitution, for expenditures to support the operations of the Special Investigation and Prosecution Unit and to carry out its responsibilities pursuant to this article. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate additional amounts to the Office of the Attorney General and other agencies as may be necessary to carry out the provisions of this article.

TITLE IX.
CAMPAIGN FINANCE REFORM

SECTION 26. Articles 1 through 7 of Chapter 5 (commencing with Section 85100) of Title 9 of the Government Code are repealed. Notwithstanding Section 39 of this measure, this section is not severable from Section 27 of this measure.

~~Article 1. Findings and Purposes~~

~~85100. Title~~

~~This chapter shall be known as the Campaign Spending Limits Act of 1986.~~

~~85101. Findings and Declarations~~

~~The people find and declare each of the following:~~

~~(a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of legislative candidates.~~

~~(b) Campaign spending for California legislative campaigns is escalating to dangerous levels. The average legislative race cost nearly four hundred fifty thousand dollars ($450,000) in 1984. Million dollar electoral contests for seats which pay thirty-three thousand seven hundred thirty-two dollars ($33,732) a year are increasingly common.~~

~~(c) The rapidly increasing costs of political campaigns have forced many legislative candidates to raise larger and larger percentages of money from statewide interest groups with a specific financial stake in matters before the Legislature. This has caused the public perception that legislators' votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the Legislature and the governmental process.~~

~~(d) The average legislative candidate now raises over 90% of his or her campaign contributions from sources outside his or her own district. This has caused the growing public perception that legislators are less interested in the problems of their own constituents than the problems of wealthier statewide contributors.~~

~~(e) Legislative candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.~~

~~(f) High campaign costs are forcing legislators to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting legislators from urgent legislative matters.~~

~~(g) Legislators are responding to high campaign costs by raising large amounts of money in off-election years. This fundraising distracts legislators from important public matters, encourages contributions which may have a corrupting influence and gives incumbents an unfair fundraising advantage over potential challengers.~~

~~(h) Incumbents are raising far more money than challengers. In the 1984 general election, Assembly incumbents outspent their challengers by a 14-to-1 ratio and won 100% of their contests. In 1983, a non-election year, incumbent legislators raised $14.3 million while their challengers raised less than fifty thousand dollars ($50,000). In 1984, out of 100 legislative races in the primary and general elections, only two incumbents were defeated. The fundraising advantages of incumbency are diminishing electoral competition between incumbents and challengers.~~

~~(i) The integrity of the legislative process, the competitiveness of campaigns and public confidence in legislative officials are all diminishing.~~

~~85102. Purpose of this Chapter~~

~~The people enact this Act to accomplish the following purposes:~~

~~(a) To ensure that individuals and interest groups in our society have a fair and equal opportunity to participate in the elective and legislative processes.~~

~~(b) To reduce the influence of large contributors with a specific financial stake in matters before the Legislature, thus countering the perception that legislation is influenced more by the size of contributions than the merits of legislation or the best interests of the people of California.~~

~~(c) To assist serious candidates in raising enough money to communicate their views and positions adequately to the public without excessive expenditures or large contributions, thereby promoting public discussion of the important issues involved in political campaigns.~~

~~(d) To limit overall expenditures in legislative campaigns, thereby reducing the pressure on legislative candidates to raise large campaign war chests beyond the amount necessary to communicate reasonably with voters.~~

~~(e) To provide a neutral source of campaign financing by allowing individual taxpayers voluntarily to dedicate a portion of their state taxes to defray a part of the costs of legislative campaigns.~~

~~(f) To increase the importance of in-district contributions.~~

~~(g) To increase the importance of smaller contributions.~~

~~(h) To eliminate off-year fundraising.~~

~~(i) To reduce excessive fundraising advantages of incumbents and thus encourage competition for elective office.~~

~~(j) To allow candidates and legislators to spend a lesser proportion of their time on fundraising and a greater proportion of their time discussing important legislative issues.~~

~~(k) To improve the disclosure of contribution sources in reasonable and effective ways.~~

~~(l) To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.~~

~~(m) To help restore public trust in the state's legislative and electoral institutions.~~

~~Article 2. Definitions~~

~~85200. Interpretation of this Chapter~~

~~Unless the term is specifically defined in this chapter or the contrary is stated or clearly appears from the context, the definitions set forth in Chapter 2 (commencing with Section 82000) shall govern the interpretation of this chapter.~~

~~85201. Legislative Caucus Committee~~

~~"Legislative caucus committee" means a committee controlled by the caucus of each political party of each house of the Legislature. Each party of each house may establish only one such committee which shall not be considered to be a candidate-controlled committee. A "legislative caucus committee" may make contributions to any candidate running for legislative office.~~

~~85202. Small Contributor Political Action Committee~~

~~"Small contributor political action committee" means any committee which meets all of the following criteria:~~

~~(a) All the contributions it receives from any person in a twelve month period total $50 or less.~~

~~(b) It has been in existence at least six months.~~

~~(c) It contributes to at least five candidates.~~

~~(d) It is not a candidate-controlled committee.~~

~~85203. Qualified Campaign Expenditure~~

~~(a) "Qualified campaign expenditure" for legislative candidates includes all the following:~~

~~(1) Any expenditure made by a candidate for legislative office, or by a committee controlled by such a candidate, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate for legislative office.~~

~~(2) Any transfer of anything of value made by the legislative candidate's controlled committee to any other committee.~~

~~(3) A non-monetary contribution provided at the request of or with the approval of the legislative candidate, legislative officeholder or committee controlled by the legislative candidate or legislative officeholder.~~

~~(4) That portion of a slate mailing or other campaign literature produced or authorized by more than one legislative candidate which is the greater of the cost actually paid by the committee or controlled committee of the legislative candidate or the proportionate share of the cost for each such candidate. The number of legislative candidates sharing costs and the emphasis on or space devoted to each such candidate shall be considered in determining the cost attributable to each such candidate.~~

~~(b) "Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made for political purposes.~~

~~85204. Two-Year Period~~

~~"Two-year period" means the period commencing with January 1 of an odd-numbered year and ending with December 31 of an even-numbered year.~~

~~85205. Campaign Reform Fund~~

~~"Campaign Reform Fund" means the fund created by Section 18775 of the Revenue and Taxation code.~~

~~85206. Organization~~

~~"Organization" means a proprietorship, labor union, firm, partnership, joint venture, syndicate, business trust, company, corporation, association or committee which has 25 or more employees, shareholders, contributors, or members.~~

~~Article 3. Contribution Limitations~~

~~85300. Limitations on Contributions from Persons~~

~~(a) No person shall make to any candidate for legislative office and the controlled committee of such a candidate and no such candidate and the candidate's controlled committee shall accept from each such person a contribution or contributions totaling more than one thousand dollars ($1,000) each of the following elections in which the candidate is on the ballot or write-in candidate: a primary election, a general election, a special election special runoff election.~~

~~(b) No organization shall make to any candidate for legislative office and the controlled committee of such a candidate and no such candidate and the candidate's controlled committee shall accept from each such organization a contribution or contributions totaling more than two thousand five hundred dollars ($2,500) for each of the following elections in which the candidate is on~~

the ballot or is a write/in candidate: a primary election, a general election, a special election or special runoff election.

(c) No person shall make to any committee which supports or opposes any legislative candidate and no such committee shall accept from each such person a contribution or contributions totaling more than one thousand dollars ($1,000) per year.

(d) No organization shall make to any committee which supports or opposes y legislative candidate and no such committee shall accept from each such organization a contribution or contributions totaling more than two thousand five hundred dollars ($2,500) per year.

85301. Limitations on Contributions from Small Contributor Political Action Committees

(a) No small contributor political action committee shall make to any candidate for legislative office and the controlled committee of such a candidate, and no such candidate and the candidate's controlled committee shall accept from a small contributor political action committee a contribution or contributions totaling more than five thousand dollars ($5,000) for each of the following elections in which the candidate is on the ballot or is a write/in candidate: a primary election, a general election, a special election or special runoff election.

(b) No small contributor political action committee shall make to any committee supporting or opposing a legislative candidate and no such committee shall accept from a small contributor political action committee a contribution or contributions totaling more than five thousand dollars ($5,000) in a two/year period.

85302. Limitations on Contributions to Political Parties and Legislative Caucus Committees

No person, including an organization or a small contributor political action committee, shall make to any political party committee supporting or opposing legislative candidates or legislative caucus, and no such party committee or legislative caucus committee shall accept from each such person a contribution or contributions totaling more than five thousand dollars ($5,000) in a two/year period.

85303. Limitations on Contributions from Political Parties and Legislative Caucuses

No more than a total of fifty thousand dollars ($50,000) in the case of an Assembly candidate, and a total of seventy/five thousand dollars ($75,000) in the case of a Senate candidate, for a general election or special runoff election, shall be accepted in contributions from legislative caucus committees and political party committees by any candidate and the controlled committee of such a candidate. No legislative caucus committee or political party shall make a contribution to a legislative candidate running in a primary election or special election.

85304. Seed Money

[T]he limitations in Sections 85300 and 85301 shall not apply to contributions to a [can]didate for legislative office until the candidate has raised thirty/five thousand dollars ($35,000) in the election year.

85305. Limitations on Contributions from Non/Individuals

No more than a total of fifty thousand dollars ($50,000) in the case of an Assembly candidate, and a total of seventy/five thousand dollars ($75,000) in the case of a Senate candidate, for either a primary, general, special or special runoff election, shall be accepted in contributions from non/individuals by any candidate and the controlled committee of such a candidate. Contributions from political parties and legislative caucuses shall be exempt from this provision.

85306. Limitations on Total Contributions from Persons

No person shall make to legislative candidates or to committees supporting legislative candidates contributions aggregating more than twenty/five thousand dollars ($25,000) in a two/year period. Contributions to and contributions from political parties and legislative caucuses shall be exempt from this provision.

85307. Limitations on Total Contributions from Organizations or Small Contributor Political Action Committees

No organization or small contributor political action committee shall make to legislative candidates or to committees supporting legislative candidates contributions aggregating more than two hundred thousand dollars ($200,000) in a two/year period. Contributions from political parties and legislative caucuses shall be exempt from this section.

85308. Prohibition on Transfers

(a) No candidate and no committee controlled by a candidate or candidates for legislative office or controlled by a legislator or legislators, other than a legislative caucus committee or political party, shall make any contribution to a candidate running for legislative office or to any committee supporting such a candidate including a legislative caucus committee or party committee.

(b) This section shall not prohibit a candidate from making a contribution from his or her own personal funds to his or her candidacy or to the candidacy of any other candidate for legislative office.

85309. Prohibition on Off Year Contributions

(a) No legislative candidate or legislator or any controlled committee of such a candidate or legislator shall accept any contribution in any year other than the year in which the legislative candidate or legislator is listed on the ballot as a candidate for legislative office.

(b) No legislative caucus committee or political party committee supporting or [oppo]sing legislative candidates shall accept any contribution in an odd/numbered

[8]5310. Limitations on Payments of Gifts and Honoraria

No legislator or legislative candidate and any fund controlled by such a person shall receive more than two thousand dollars ($2,000) in honoraria and gifts in a two/year period from any person other than a member of the candidate's family as specified in Section 82030 (b) (9).

85311. Return of Contributions

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within fourteen (14) days of receipt.

85312. Aggregation of Payments

For purposes of the contribution limitations in Sections 85300/85307, inclusive, and Section 85310, the following shall apply:

(a) All payments made by a person, organization or small contributor political action committee whose contributions or expenditure activity is financed, maintained or controlled by any business entity, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the business entity, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or small contributor political action committee.

(b) Two or more entities shall be treated as one person when any of the following circumstances apply:

(1) The entities share the majority of members of their boards of directors.

(2) The entities share two or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent/subsidiary relationship.

(c) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(d) No committee which supports or opposes a candidate for legislative office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which legislative candidate or candidates receive contributions.

85313. Loans

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this chapter.

(b) Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limits of this chapter.

(d) Extensions of credit (other than loans pursuant to subdivision (c)) for a period of more than thirty (30) days are subject to the contribution limitations of this chapter.

85314. Family Contributions

(a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

(b) Contributions by children under 18 shall be treated as contributions by their parents and attributed proportionately to each parent (one/half to each parent or the total amount to a single custodial parent).

85315. Candidate for Statewide or Local Office

The contribution limitations shall not apply to any contributions to a candidate for legislative office where such contributions are made to support the candidate's campaign for a specifically named statewide or local elective office, and all of the following conditions are met:

(a) The candidate specifically names the non/legislative office being sought.

(b) A separate committee and account for the non/legislative office being sought shall be established for the receipt of all contributions and the making of all expenditures in connection with the non/legislative office.

(c) The contributions to be exempted from the contribution limitations in this chapter are made directly to this separate committee's account.

(d) No expenditures from such an account shall be made to support the legislative candidate's campaign, or any other candidate's campaign for legislative office.

85316. One Campaign Committee and One Checking Account per Candidate

A legislative candidate shall have no more than one campaign committee and one checking account out of which all expenditures shall be made. This section shall not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

85317. Time Periods for Primary Contributions and General Election Contributions

For purposes of the contribution limitations, contributions made at any time before July 1 of the election year shall be considered primary contributions, and contributions made from July 1 until December 31 of the election year shall be considered general election contributions. Contributions made at any time after the seat has become vacant and up through the date of the election shall be considered contributions in a special election, and contributions made after the special election and up through fifty/eight (58) days after the special runoff election shall be considered contributions in a special runoff election.

Article 4. Expenditure Limitations

85400. Expenditure Limitations for Assembly Candidates

No candidate for State Assembly who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) One hundred fifty thousand dollars ($150,000) in a primary election.

(b) Two hundred twenty/five thousand dollars ($225,000) in a general, special, or special runoff election.

85401. Expenditure Limitations for State Senate Candidates

No candidate for State Senate who files a statement of acceptance of financing

from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) Two hundred fifty thousand dollars ($250,000) in a primary election.

(b) Three hundred fifty thousand ($350,000) in a general, special or special runoff election.

85402. Expenditure Limitations Lifted / Primary Elections

In the primary election, if a candidate who declines to accept payments from the Campaign Reform Fund receives contributions or makes qualified campaign expenditures in excess of the expenditure limits, or if an independent committee or committees spend more than fifty thousand dollars ($50,000) in support of, or in opposition to any legislative candidate, the expenditure limitation shall no longer be applicable to all candidates who seek the party nomination for the same seat. In addition, each candidate, other than the candidate who exceeded the expenditure limits, shall be permitted to receive an additional thirty/five thousand dollars ($35,000) free of contribution limitations, in accordance with Section 85301.

85403. Expenditure Limitations Lifted / Non/Primary Elections

In the general, special or special runoff election, if a candidate who declines to accept payments from the Campaign Reform Fund receives contributions or makes qualified campaign expenditures in excess of the expenditure limits, or if an independent expenditure committee or committees spend more than fifty thousand dollars ($50,000) in support of or in opposition to any legislative candidate, the expenditure limitations shall no longer be applicable to all candidates running for the same seat in the general, special or special runoff election. In addition, each candidate, other than the candidate who exceeded the expenditure limits, shall be permitted to receive an additional thirty/five thousand dollars ($35,000) free of contribution limitations, in accordance with Section 85301.

85404. Notification by Candidate Who Exceeds Expenditure Limitations

A candidate who has declined to accept payments from the Campaign Reform Fund and receives contributions or spends an amount over the expenditure limitations shall notify all opponents and the Commission by telephone and by confirming telegram the day the limitations are exceeded.

85405. Time Periods for Primary Election Expenditures and General Election Expenditures

For purposes of the expenditure limitations, qualified campaign expenditures made at any time before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. Qualified campaign expenditures made at any time after the seat has become vacant and up through the date of the election shall be considered expenditures in a special election, and qualified campaign expenditures made after the special election and up through 58 days after the special runoff election shall be considered expenditures in a special runoff election. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period when they are used. Payments for goods or services used in both time periods shall be prorated.

Article 5. Campaign Reform Fund

85500. Candidate Acceptance or Rejection of Funds

Each candidate for legislative office, at the time of filing his or her Declaration of Candidacy, shall file a statement of acceptance or rejection of financing from the Campaign Reform Fund. If a candidate agrees to accept financing from the Campaign Reform Fund, the candidate shall comply with the provisions of Article 4 of this Act. A candidate who agrees to accept financing from the Campaign Reform Fund may not change that decision. A candidate who does not agree to accept such financing shall notify all opponents and the Commission by telegram on the day such a candidate raises, spends or has cash on hand of more than thirty/five thousand dollars ($35,000).

85501. Qualification Requirements

In order to qualify to receive payments from the Campaign Reform Fund, a candidate shall meet all the following requirements:

(a) The candidate has received contributions (other than contributions from the candidate or his or her immediate family) of at least twenty thousand dollars ($20,000) in contributions of one thousand dollars ($1,000) or less if running for the Assembly, or at least thirty thousand dollars ($30,000) in contributions of one thousand dollars ($1,000) or less if running for the Senate. Only contributions received on or after January 1 of the election year or, if a special election, after the Declaration of Candidacy is filed, may be counted for the above threshold. For purposes of this subsection, a loan, a pledge or a non/monetary contribution shall not be considered a contribution.

(b) In the primary election, the candidate is opposed by a candidate running for the same nomination who has qualified for payments from the Campaign Reform Fund or has raised, spent or has cash on hand of at least thirty/five thousand dollars ($35,000).

(c) In the general election, the candidate is opposed by a candidate who has qualified for payments from the Campaign Reform Fund or has raised, spent or has cash on hand of at least thirty/five thousand dollars ($35,000).

(d) The candidate contributes no more than fifty thousand dollars ($50,000) per election from his or her personal funds to the legislative campaign.

85502. Campaign Reform Fund Formula

A candidate who is eligible to receive payments from the Campaign Reform Fund shall receive payments on the basis of the following formulas:

(a) For a contribution or contributions (other than a contribution from the candidate or his or her immediate family) totaling two hundred fifty dollars ($250) or under from a single source received on or after January 1 of the election year or, if a special election, after the Declaration of Candidacy is filed, a matching ratio of three dollars ($3) from the Campaign Reform Fund for each dollar received.

(b) For a contribution or contributions (other than a contribution from the candidate or his or her immediate family) totaling two hundred fifty ($250) or under from an individual who is a registered voter in the candidate's district and whose contribution is made on or after January 1 of the election year or, if a special election, after the candidate's Declaration of Candidacy is filed, a matching ratio of five dollars ($5) from the Campaign Reform Fund for ea[illegible] dollar received.

(c) For purposes of this section, a loan, a pledge or a non/monetary payme[illegible] shall not be considered a contribution.

85503. Candidate Request for Payment

The Commission shall determine the information needed to be submitted to qualify for payment from the Campaign Reform Fund. A candidate may not request less than ten thousand dollars ($10,000) in payments at any one time from the Campaign Reform Fund; provided, however, that in the 14 days preceding an election, a candidate may not request less than two thousand five hundred ($2,500) in such payments.

85504. Maximum Funds Available to Candidate

No candidate shall receive payments from the Campaign Reform Fund in excess of the following amounts:

(a) For an Assembly candidate, seventy/five thousand dollars ($75,000) in the primary election and one hundred twelve thousand five hundred dollars ($112,500) in the general, special or special runoff election.

(b) For a Senate candidate, one hundred twenty/five thousand dollars ($125,000) in the primary election and one hundred seventy/five thousand ($175,000) in the general, special or special runoff election.

85505. Timing of Payments to Candidates

The Controller shall make payments from the Campaign Reform Fund in the amount certified by the Commission. Payments shall be made no later than 3 business days after receipt of the request by the candidate. If the Commission determines the money in the Campaign Reform Fund is not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates, the Commission shall notify the Controller to withhold sufficient amounts as may be necessary to assure that the eligible candidates will receive a pro rata share of their entitlements. The amount withheld shall be paid when the Commission determines that there is sufficient money in the Fund to pay the amounts or portions of the amounts. No payments shall be made from any source other than the Campaign Reform Fund.

85506. Surplus Funds

(a) Surplus funds remaining after all obligations are met by the candidate shall be returned to the Campaign Reform Fund after the general election based on a ratio of the public funds received by a candidate compared to the private funds raised by the candidate for each election.

(b) A legislative candidate who has more than one hundred thousand dollars ($100,000) in surplus funds after he or she complies with subdivision (a) s[illegible] either return all funds over one hundred thousand dollars ($100,000) to his or contributors on a pro rata basis or shall donate the surplus over one hundr[illegible] thousand dollars ($100,000) to the Campaign Reform Fund.

Article 6. Independent Expenditures

85600. Independent Expenditures for Mass Mailings

(a) Any person who makes independent expenditures for a mass mailing which supports or opposes any candidate for legislative office shall put the following statement on the mailing:

> NOTICE TO VOTERS
> (Required by State Law)
>
> This mailing is not authorized or approved by any legislative candidate or election official.
>
> It is paid for by ______________________
> (name)
>
> ______________________
> Address, City, State

(b) The statement required by this section shall appear on the envelope and on each page or fold of the mass mailing in at least 10/point type, not subject to the half/tone or screening process, and in a printed or drawn box set apart from any other printed matter.

85601. Contribution Limitations

Any person who makes independent expenditures supporting or opposing a legislative candidate shall not accept any contribution in excess of the amounts set forth in Section 85300(c) and (d).

85602. Limitations on Persons Who Make Independent Expenditures and Contributions to Candidates

Any person who makes a contribution of one hundred dollars ($100) or more to a candidate for legislative office shall be considered to be acting in concert with that candidate and shall not make independent expenditures and contributions in excess of the amounts set forth in Sections 85300 and 85301 in support of candidate or in opposition to that candidate's opponent.

85603. Reproduction of Materials

Any person who reproduces, broadcasts or distributes any material which is drafted, printed, prepared or previously broadcast by a legislative candidate or a committee controlled by such a candidate shall report such an expenditure as a non/monetary contribution to such candidate or committee.

85604. Notice of Independent Expenditures

Any person who makes independent expenditures of more than ten thousand

~~dollars ($10,000) in support of or in opposition to any legislative candidate shall notify the Commission and all candidates in that legislative district by telegram each time this threshold is met.~~

~~Article 7. Agency Responsibilities~~

~~85700. Duties of the Fair Political Practices Commission~~

~~The Fair Political Practices Commission, in addition to its responsibilities set forth in Sections 83100 et seq., shall also:~~

~~(a) Adjust the expenditure limitations, contribution limitations and public financing provisions in January of every even-numbered year to reflect any increase or decrease in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred for the limitations on contributions and the nearest thousand for the limitations on expenditures and the public financing provisions.~~

~~(b) Prescribe the necessary forms for filing the appropriate statements.~~

~~(c) Verify the requests for payment for Campaign Reform Funds.~~

~~(d) Prepare and release studies on the impact of this title. These studies shall include legislative recommendations which further the purposes of this title.~~

~~85701. Duties of the Franchise Tax Board~~

~~The Franchise Tax Board shall audit each candidate who has received payments from the Campaign Reform Fund in accordance with the procedures set forth in Sections 90000 et seq.~~

SECTION 27. Articles 1 through 7 and Article 9 are added to Chapter 5 (commencing with Section 85100) of Title 9 of the Government Code, to read:

CHAPTER 5. THE CAMPAIGN FINANCE REFORM ACT OF 1990

Article 1. Findings and Purposes

85100. Title

This chapter shall be known and cited as the Campaign Finance Reform Act of 1990.

85101. Findings and Declarations

The people find and declare each of the following:

(a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process, but the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(b) Campaign spending for California elective offices is escalating to dangerous levels. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters before elected officers. This has caused the public perception that elected officers' votes and decisions are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the electoral and governmental process.

(c) The potentially corrupting influence of campaign contributions results not only from the perception that specific large monetary contributions might improperly influence the actions of elected officers, but from the overall pressure on candidates and elected officers to raise and spend enormous sums of money.

(d) The average legislative candidate now raises over 90% of his or her campaign contributions from sources outside his or her own district. This has caused the growing public perception that legislators are less interested in the problems of their own constituents than the problems of wealthier statewide contributors.

(e) Candidates are raising less and less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.

(f) High campaign costs are forcing public officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent legislative and governmental matters.

(g) Elected officers are responding to high campaign costs by raising large amounts of money in non-election years. This fundraising distracts them from important public matters, encourages contributions which may have a corrupting influence, and gives incumbents an unfair fundraising advantage over potential challengers.

(h) Incumbents are raising far more money than challengers. The fundraising advantages of incumbency are diminishing electoral competition between incumbents and challengers.

(i) The integrity of the governmental and electoral processes, the competitiveness of campaigns, and public confidence in elected officers are all diminishing.

85102. Purpose of this Chapter

The people enact this Act to accomplish the following purposes:

(a) To ensure that individuals and interest groups in our society have a fair and equal opportunity to participate in the elective and governmental processes.

(b) To reduce the influence of large contributors with a specific financial stake in matters before elected officers, thus countering the perception that governmental decisions are influenced more by the size of contributions than the merits of the issue or the best interests of the people of California.

(c) To assist serious candidates in raising enough money to communicate their views and positions adequately to the public without excessive reliance on large special-interest contributions, thereby promoting public discussion of the important issues involved in political campaigns.

(d) To limit overall expenditures in electoral campaigns, thereby reducing the pressure on candidates to raise large campaign war chests beyond the amount necessary to communicate reasonably with voters.

(e) To provide a neutral source of campaign financing by allowing individual taxpayers voluntarily to dedicate a portion of their state taxes to defray a portion of the costs of electoral campaigns.

(f) To increase the importance of contributions by individuals residing in a candidate's electoral district.

(g) To increase the importance of smaller contributions.

(h) To restrict non-election year fundraising.

(i) To reduce excessive fundraising advantages of incumbents and thus encourage competition for elective office.

(j) To allow candidates and elected officers to spend a lesser proportion of their time on fundraising and a greater proportion of their time discussing important public issues.

(k) To improve the disclosure of contribution sources in reasonable and effective ways.

(l) To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.

(m) To help restore public trust in the state's governmental and electoral institutions.

85103. Local Campaign Finance Limitations

(a) Nothing in this chapter shall affect the validity of a campaign finance limitation, including a limitation on contributions, in effect on the effective date of this chapter which was enacted by a local governmental agency and imposes more restrictive campaign finance limitations.

(b) Nothing in this chapter shall prohibit a local governmental agency from adopting campaign finance limitations, including contribution limitations, for candidates for elective office in its jurisdiction as long as the limitations on contributions per election cycle contained therein are no less restrictive in their overall impact within that jurisdiction than those contained in this chapter.

85104. Authority of Commission

(a) The Commission may promulgate regulations to carry out the intent of this chapter as nearly as possible. The Commission shall possess all lawful authority to forbid any specific practices the intent of which is to evade the provisions and requirements of this chapter.

(b) The Commission shall have the authority to determine that any contributions to or expenditures by a candidate or his or her controlled committee in one campaign were primarily made for the purpose or with the effect of influencing or attempting to influence the actions of the voters for or against the election of the candidate in another campaign, in which event any contributions or expenditures so determined shall be considered as, and cumulated with, any contributions to or qualified campaign expenditures of the latter campaign.

85105. Effective Date

The provisions of this chapter shall become effective on January 1, 1991.

Article 2. Definitions

85200. Interpretation of this Chapter

(a) Unless the term is specifically defined in this chapter or the contrary is stated or clearly appears from the context, the definitions set forth in Chapter 2 (commencing with Section 82000) shall govern the interpretation of this chapter.

(b) The provisions of this chapter shall be interpreted and applied by the Commission so as to achieve maximum conformity with the findings and purposes specified herein.

85201. Person

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, labor union, association, committee, and any other organization or group of persons acting in concert.

85202. Political Committee

"Political committee" means any committee of persons that meets all of the following criteria:

(a) It has been in existence for at least six months;

(b) It has received contributions from 25 or more persons during a two-year election cycle;

(c) It contributes to at least five candidates for elective office within California during a two-year election cycle; and

(d) It is not a candidate-controlled committee.

85203. Small-Contributor Political Action Committee

"Small-contributor political action committee" means any political committee that meets all of the following criteria:

(a) It has been in existence for at least six months;

(b) It has received contributions from 100 or more persons during a two-year election cycle;

(c) It contributes to at least five candidates for elective office within California during a two-year election cycle;

(d) All the contributions it receives from any person in a calendar year total $100 or less; and

(e) It is not a candidate-controlled committee.

85204. Political Party Committee

"Political party committee," for purposes of the contribution limits set forth in this chapter, means any committee established by the following organizations:

(a) The state central committee or the statewide governing body of any political party or of any organization which is qualified for participation in a primary election pursuant to Article 2 (commencing with Section 6430) of Chapter 5 of Division 6 of the Elections Code.

(b) A county central committee established pursuant to the following provisions of the Elections Code: Sections 8820–8945; Sections 9320–9444; Sections 9700–9745; Sections 9830–9855; and Section 9955.

(c) Any bona fide local political party club established or chartered by a state central or county central committee referred to in subsections (a) and (b).

(d) A single legislative caucus committee controlled by the caucus of each political party of each house of the Legislature.

No political party committee, as defined in this section, shall be considered a controlled committee for purposes of the contribution limits set forth in this chapter.

85205. Qualified Campaign Expenditure

(a) "Qualified campaign expenditure" for candidates for elective state office includes all of the following:

(1) Any expenditure made by an elected state officer or a candidate for elective state office, or by a committee controlled by such a candidate, for the purpose or with the primary effect of influencing or attempting to influence the actions of the voters for or against the election of any candidate for elective state office.

(2) Any transfer of anything of value made by the candidate's controlled committee to any other committee.

(3) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder, or committee controlled by the candidate or officeholder.

(b) "Qualified campaign expenditure" does not include any payment for "legitimate officeholder expenses" within the meaning of that term as defined in Section 85206.

85206. Legitimate Officeholder Expenses

"Legitimate officeholder expenses" means those expenditures of campaign funds that arise out of the performance of an elected officer's official duties, directly assist the elected officer in performing his or her official duties, or principally benefit the legislative or governmental entity. Legitimate officeholder expenses include those expenses arising out of an elected officer's responsibilities as an official of his or her political party, such as those devolving upon the elected officer pursuant to Elections Code Sections 8660, 9160, 9640, and 9790. The Commission shall by regulation specify categories of expenditures that qualify or do not qualify as "legitimate officeholder expenses" pursuant to this section.

85207. Two-Year Election Cycle

"Two-year election cycle" means the period commencing with January 1 of an odd-numbered year and ending with December 31 of the following even-numbered year.

85208. Campaign Reform Fund

"Campaign Reform Fund" means the fund created by Section 18775 of the Revenue and Taxation Code.

Article 3. Candidacy

85300. Declaration of Intent

Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office shall file with the Commission, or with such other filing officer as the Commission may designate, a statement signed under penalty of perjury of intention to be a candidate for a specific elective office and term. Except as provided in Section 85412, an individual may not solicit or receive contributions for more than one elective office at the same time.

85301. Campaign Contribution Account

(a) Upon the filing of the statement of intention pursuant to Section 85300, the individual shall establish one campaign contribution account for that specific elective office at a financial institution located in the state of California. Except as provided in Section 85303, a candidate shall have no more than one campaign committee for elective office and no more than one campaign contribution account at any one time. This section shall not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of such accounts.

(b) Upon the establishment of a campaign contribution account pursuant to subsection (a), the name of the financial institution, the specific location, and the account number shall be filed within 10 days with the Commission, or with such other filing officer as the Commission may designate.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled campaign committee shall be deposited into the account established pursuant to subsection (a). Except as provided in subsection (d), any personal funds of the candidate that will be used to support his or her candidacy shall be deposited in the account prior to expenditure.

(d) All campaign expenditures shall be made from the campaign contribution account established pursuant to subsection (a), except that the Commission shall by regulation permit personal funds to be used for travel expenses and petty cash expenditures if reimbursed by the campaign contribution account within a reasonable time period.

85302. Contributions Held in Trust

Except as provided in Section 85510, all contributions deposited into the campaign account established pursuant to Section 85301 shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office which, pursuant to Section 85300, the candidate has stated he or she intends to seek or for legitimate officeholder expenses, as specified in Section 85206, associated with holding that office.

85303. Officeholder Expense Account

(a) Notwithstanding Section 85301, an elected officer may establish and maintain a separate campaign contribution account to be used solely for payment of legitimate officeholder expenses. Upon assuming elective office, the officer may establish a single officeholder expense account at a financial institution located in California. The name of the institution, its specific location, and the account number shall be filed with the Commission, or with such other filing officer as the Commission may designate, within 10 days of opening the account.

(b) Upon establishing an officeholder expense account pursuant to subsection (a), the officer may deposit into the account any campaign contributions received in accordance with Section 85412 and any surplus funds transferred from another officeholder expense account in accordance with subdivision (d) of this section or from the officer's controlled campaign committee in accordance with Section 85510(c)(2).

(c) Any funds deposited into an officeholder expense account must be used solely to pay for legitimate officeholder expenses associated with holding the specific office for which the funds were raised. However, no funds shall be expended from an officeholder expense account after the elected officer has filed a Declaration of Candidacy for any elective office pursuant to Section 6490 of the Elections Code.

(d) An officeholder expense account established pursuant to this section shall be closed within sixty (60) days after the officer who established the account leaves office. Any surplus funds remaining in the account at that time may either be transferred to a new officeholder expense account established by the officer, donated to the Campaign Reform Fund, contributed to a political party committee, or donated to any bona fide charitable, educational, civic, religious, or similar tax-exempt organization, where no substantial part of the proceeds will have a material financial effect on the former elected official or any member of his or her immediate family. Any surplus funds contributed to a political party committee pursuant to this subsection shall be exempt from the contribution limitations of Section 85404.

Article 4. Contribution Limitations

85400. Limitation on Sources of Contributions

(a) A candidate for elective office may only accept campaign contributions from persons, political committees, small-contributor political action committees, and political party committees, and only in the amounts specified in this article (commencing with Section 85401). A candidate shall not solicit or accept contributions from any other source.

(b) All contributions received by a candidate and his or her controlled committees from a single source for any elections to be held on the same date shall be cumulated for purposes of the contribution limitations set forth in Sections 85401–85403.

85401. Limitations on Contributions from Persons

(a) No person shall make to any candidate and the controlled committee of such a candidate, and no such candidate and the candidate's controlled committee shall accept from each such person, a contribution or contributions totaling more than one thousand dollars ($1,000) for each of the following elections in which the candidate is on the ballot or is a write-in candidate: a primary election, a general election, a special election, or a special runoff election.

(b) No person shall make to any committee which supports or opposes any candidate, and no such committee shall accept from each such person, a contribution or contributions totaling more than one thousand dollars ($1,000) per calendar year.

(c) The limitations of this section shall not apply to a candidate's contribution of his or her own personal funds to his or her own controlled committee and campaign contribution account.

85402. Limitations on Contributions from Political Committees

(a) No political committee shall make to any candidate and the controlled committee of such a candidate, and no such candidate and the candidate's controlled committee shall accept from each such political committee, a contribution or contributions totaling more than two thousand five hundred dollars ($2,500) for each of the following elections in which the candidate is on the ballot or is a write-in candidate: a primary election, a general election, a special election, or a special runoff election. Contributions from political party committees to state candidates shall not be limited by this subsection.

(b) No political committee shall make to any committee which supports or opposes any candidate, and no such committee shall accept from each such political committee, a contribution or contributions totaling more than two thousand five hundred dollars ($2,500) per calendar year.

85403. Limitations on Contributions from Small-Contributor Political Action Committees

(a) No small-contributor political action committee shall make to any candidate and the controlled committee of such a candidate, and no such candidate and the candidate's controlled committee shall accept from a small-contributor political action committee, a contribution or contributions totaling more than ten thousand dollars ($10,000) for each of the following elections in which the candidate is on the ballot or is a write-in candidate: a primary election, a general election, a special election, or a special runoff election. Contributions from political party committees to state candidates shall not be limited by this subsection.

(b) No small-contributor political action committee shall make to any committee which supports or opposes a candidate, and no such committee shall accept from a small-contributor political action committee, a contribution or contributions totaling more than ten thousand dollars ($10,000) per calendar year.

85404. Limitations on Contributions to Political Party Committees

(a) Except as provided in Section 85418, no person shall make to any political party committee which supports or opposes a candidate, and no such political party committee shall accept from each such person, a contribution or contributions totaling more than one thousand dollars ($1,000) per calendar year for use to support or oppose candidates for elective office.

(b) Except as provided in Section 85418, no political committee shall make to any political party committee which supports or opposes a candidate, and no such political party committee shall accept from each such political committee, a contribution or contributions totaling more than two thousand five hundred dollars ($2,500) per calendar year for use to support or oppose candidates for elective office.

(c) Except as provided in Section 85418, no small-contributor political action committee shall make to any political party committee which supports or opposes a candidate, and no such political party committee shall accept from each such small-contributor political action committee, a contribution or contributions totaling more than ten thousand dollars ($10,000) per calendar year for use to support or oppose candidates for elective office.

85405. Limitations on Total Contributions to State Candidates from All Non-Individuals

No more than a total of one-third of the applicable expenditure limitations specified in Article 5 of this chapter (commencing with Section 85500) for any

primary, general, special, or special runoff election shall be accepted in contributions from all non-individuals in the aggregate by any state candidate and the controlled committee of such candidate. These limitations on total contributions from non-individuals apply whether or not the candidate agrees to accept financing from the Campaign Reform Fund and complies with the expenditure limitations specified in Article 5. Contributions from political party committees are exempt from the limitations of this section.

85406. Limitations on Total Contributions to State Candidates from All Political Party Committees

No more than a total of one-sixth of the applicable expenditure limitations specified in Article 5 of this chapter (commencing with Section 85500) for the general, special, or special runoff election shall be accepted in contributions from all political party committees in the aggregate by any state candidate and the controlled committee of such candidate for a primary and general election combined or for a special election and special runoff election combined.

85407. Limitations on Total Contributions from Persons to All State Candidates

No person shall make to state candidates, or to any committees which support or oppose such candidates, contributions aggregating more than forty thousand dollars ($40,000) in any two-year election cycle. Contributions to and from political party committees shall be exempt from the limitations of this section.

85408. Limitations on Total Contributions from Political Committees to All State Candidates

No political committee shall make to state candidates, or to any committees which support or oppose such candidates, contributions aggregating more than one hundred thousand dollars ($100,000) in any two-year election cycle. Contributions to and from political party committees shall be exempt from the limitations of this section.

85409. Limitations on Total Contributions from Small-Contributor Political Action Committees to All State Candidates

No small-contributor political action committee shall make to state candidates, or to any committees which support or oppose such candidates, contributions aggregating more than four hundred thousand dollars ($400,000) in any two-year election cycle. Contributions to and from political party committees shall be exempt from the limitations of this section.

85410. Prohibition on Transfers

(a) Transfers of funds between candidates or their controlled committees are prohibited. Except as provided in Section 85510, no candidate and no committee controlled by a candidate or candidates for elective office shall transfer any contribution to any other candidate for elective office or to any committee supporting or opposing a candidate for elective office.

(b) This section shall not prohibit a candidate from accepting contributions from any political party committee.

(c) This section shall not prohibit a candidate from making a contribution from his or her own personal funds to any other candidate for elective office.

(d) This section shall not prohibit a candidate from transferring contributions to any candidate-controlled committee that is primarily formed to support or oppose a ballot measure and that does not support or oppose any candidate for elective office.

85411. Restriction on Non-Election Year Contributions

(a) Except as provided in Section 85412, no candidate for member of the Legislature or member of the State Board of Equalization (including an incumbent officeholder intending to seek re-election), nor the controlled committee of such a candidate, shall solicit or accept any contribution before October 1 of the odd-numbered year prior to the date of the primary or general election for the specific legislative or Board of Equalization office which the candidate has stated, pursuant to Section 85300, that he or she intends to seek. In the case of a special election or special runoff election, no such candidate or controlled committee of such a candidate shall solicit or accept any contribution more than one hundred and twenty (120) days prior to the date of that election. Only contributions raised in compliance with this subsection may be used by a candidate or the controlled committee of any such candidate to make expenditures in support of or in opposition to any candidate for member of the Legislature or State Board of Equalization.

(b) Except as provided in Section 85412, no candidate for statewide elective office (including an incumbent officeholder intending to seek re-election), nor any controlled committee of such candidate, shall solicit or accept any contribution before October 1 of the even-numbered year two years prior to the date of the primary or general election for the specific statewide elective office which the candidate has stated, pursuant to Section 85300, that he or she intends to seek. Only contributions raised in compliance with this subsection may be used by a candidate or the controlled committee of any such candidate to make expenditures in support of or in opposition to any candidate for statewide elective office.

(c) No legislative caucus committee, as specified in subdivision (d) of Section 85204, shall solicit or accept any contribution before October 1 of any odd-numbered year, except that a legislative caucus committee may solicit or accept a contribution within one hundred and twenty (120) days prior to the date of a special election or special runoff election.

85412. Contributions to Officeholder Expense Account

(a) Upon establishing an officeholder expense account pursuant to Section 85303, a member of the Legislature or State Board of Equalization may solicit and accept contributions for deposit into the officeholder expense account totaling no more than fifteen thousand dollars ($15,000) per calendar year, and a person holding statewide elective office may solicit and accept contributions for deposit into the officeholder expense account totaling no more than thirty thousand dollars ($30,000) per calendar year. Any such contributions shall be used solely to pay for legitimate officeholder expenses associated with holding that specific state office.

(b) Contributions received and deposited into the officeholder expense account pursuant to this section shall be exempt from the restrictions of Section 85411. However, the contribution limitations in Sections 85400 through 85410, inclusive, shall apply to all contributions received pursuant to this section, and all such contributions shall be cumulated with any other contributions received by the candidate and his or her controlled committees from the same source for purposes of those limitations.

(c) No more than a total of thirty thousand dollars ($30,000) in the case of a member of the Assembly, no more than a total of sixty thousand dollars ($60,000) in the case of a member of the Senate or State Board of Equalization, and no more than a total of one hundred and twenty thousand dollars ($120,000) in the case of a person holding statewide elective office shall be deposited into the officeholder expense account during the elected officer's term of office. All contributions received and deposited into the officeholder expense account pursuant to this section shall be cumulated with any surplus campaign funds transferred into the account pursuant to Section 85510(c)(2) for purposes of these limitations.

85413. Return of Contributions

A contribution shall not be considered to be received if it is returned to the donor within fourteen (14) days of receipt and has not been negotiated, deposited, or utilized.

85414. Aggregation of Payments

For purposes of the contribution limitations set forth in this chapter, and in Section 87105, the following aggregation principles shall apply:

(a) All payments made by persons, political committees, or small-contributor political action committees whose contributions or expenditure activity are controlled by a single business entity, labor organization, association, political party or any other person or committee shall be considered to be made by a single person, political committee, or small-contributor political action committee.

(b) Two or more entities shall be treated as one entity when any of the following circumstances apply:

(1) The entities share the majority of members of their boards of directors.

(2) The entities share two or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent-subsidiary relationship.

(c) An individual and any general or limited partnership in which the individual is a controlling partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

85415. Loans

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this chapter.

(b) Every loan to a candidate or the candidate's controlled committee shall be by written agreement, which shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limits of this chapter.

(d) Extensions of credit from a bona fide vendor of services or goods (other than loans pursuant to subdivision (c)) for a period of more than sixty (60) days are subject to the contribution limitations of this chapter.

85416. Family Contributions

(a) Contributions by a husband and wife shall be treated as separate contributions.

(b) Contributions by children under 18 shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

85417. Time Periods for Attributing Contributions

(a) For purposes of application of the contribution limitations set forth in this chapter to primary and general elections held for any elective state office in June and November of even-numbered years, contributions made at any time before July 1 of the election year shall be considered primary contributions, and contributions made from July 1 until December 31 of the election year shall be considered general election contributions.

(b) For purposes of application of the contribution limitations set forth in this chapter to special and special runoff elections, contributions made at any time after the office has become vacant and up through the date of the special election shall be considered contributions in the special election, and contributions made after the date of the special election and up through fifty-eight (58) days after the special runoff election shall be considered contributions in the special runoff election.

(c) The Commission shall establish the appropriate time periods for attributing contributions to any elections not covered by subsection (a) or (b).

85418. Communications to Members Not Limited

(a) Nothing in this chapter shall limit the ability of a bona fide political party organization specified in Section 85204(a)-(c) to communicate with its own members by:

(1) paying the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party, provided that—

(A) such payments must be made from contributions subject to the limitations and prohibitions of this chapter,

(B) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising, and

(C) such payments are not made from contributions designated by the contributor to be spent on behalf of any particular candidate or candidates; and

(2) paying the costs of get-out-the-vote activities conducted on behalf of nominees of such party, including paying the costs of preparation or distribution of a printed slate card, sample ballot, or other printed listing of 3 or more candidates for any elective office in the state (or of the party's entire slate of

candidates in the state election, whichever is less), provided that—

(A) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising, and

(B) such payments are not made from contributions designated by the contributor to be spent on behalf of any particular candidate or candidates.

(b) Nothing in this chapter shall limit the ability of a bona fide political party organization specified in Section 85204(a)–(c) to pay the costs of voter registration activities, provided that such payments are not made from contributions designated by the contributor to be spent on behalf of any particular candidate or candidates.

(c) Nothing in this chapter shall limit the ability of a bona fide membership organization, union, or corporation from communicating with its own members or shareholders in support of or opposition to any candidate for elective office.

85419. Earmarking of Contributions Prohibited

No person or committee shall make, and no person or committee shall accept, any contribution on the condition or with the agreement that it will be spent on behalf of any particular candidate. The expenditure of funds received by a person or committee shall be made at the sole discretion of the recipient person or committee. Contributions to candidates and committees controlled by such candidates shall be exempt from the prohibition of this section. This section shall not prohibit contributions by an intermediary or agent in accordance with Section 84302.

85420. Contributions to Ballot-Measure Committees Not Limited

Nothing in this chapter shall limit a person's ability to contribute to any committee that is primarily formed to support or oppose a ballot measure, whether or not such committee is controlled by a candidate or candidates.

Article 5. Expenditure Limitations

85500. Expenditure Limitations for Gubernatorial Candidates

Except as provided in Section 85511, no candidate for Governor who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) Four million five hundred thousand dollars ($4,500,000) in a primary election.

(b) Seven million two hundred thousand dollars ($7,200,000) in a general election.

85501. Expenditure Limitations for Other Candidates for Statewide Elective Office

Except as provided in Section 85511, no candidate for Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, or Insurance Commissioner who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) One million five hundred thousand dollars ($1,500,000) in a primary election.

(b) Two million four hundred thousand dollars ($2,400,000) in a general election.

85502. Expenditure Limitations for Superintendent of Public Instruction Candidates

Except as provided in Section 85511, no candidate for Superintendent of Public Instruction who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) One million nine hundred and fifty thousand dollars ($1,950,000) in a primary election.

(b) One million nine hundred and fifty thousand dollars ($1,950,000) in a general, special, or runoff election.

85503. Expenditure Limitations for State Board of Equalization Candidates

Except as provided in Section 85511, no candidate for member of the State Board of Equalization who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) Four hundred and twenty-five thousand dollars ($425,000) in a primary election.

(b) Seven hundred thousand dollars ($700,000) in a general, special, or special runoff election.

85504. Expenditure Limitations for State Senate Candidates

Except as provided in Section 85511, no candidate for member of the Senate who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) Four hundred and twenty-five thousand dollars ($425,000) in a primary election.

(b) Seven hundred thousand dollars ($700,000) in a general, special, or special runoff election.

85505. Expenditure Limitations for State Assembly Candidates

Except as provided in Section 85511, no candidate for member of the Assembly who files a statement of acceptance of financing from the Campaign Reform Fund and any controlled committee of such a candidate shall make qualified campaign expenditures above the following amounts:

(a) Two hundred and fifty thousand dollars ($250,000) in a primary election.

(b) Four hundred thousand dollars ($400,000) in a general, special, or special runoff election.

85506. Expenditure Limitations Lifted—Primary Elections

(a) In any primary election, if a candidate who declines to accept payments from the Campaign Reform Fund and the controlled committee of such candidate receives contributions, makes qualified campaign expenditures, or has cash-on-hand in excess of the applicable expenditure limitation set forth in this article, then the expenditure limitation shall no longer be applicable to all other candidates who seek the party nomination for the same seat (or in the case of a primary election for Superintendent of Public Instruction, to all other candidates in that primary election). In addition, the limitation on maximum payments from the Campaign Reform Fund contained in Section 85604 shall no longer be applicable to all other candidates who have agreed to accept payments from the Fund.

(b) In any primary election, if any committee or committees ma[illegible] independent expenditures in support of a candidate totaling more than one-s[illegible] of the applicable expenditure limitation specified in this article for that electi[illegible] then the expenditure limitation for all other candidates who seek the party nomination for the same seat (or in the case of a primary election for Superintendent of Public Instruction, for all candidates in that primary election) shall be raised by an amount equal to the amount independently spent in support of that candidate. The Commission shall have the responsibility for determining whether independent expenditures have been made in support of a particular candidate or candidates and, if so, the amount by which the expenditure limitation shall be raised pursuant to this section.

(c) In any primary election, if any committee or committees make independent expenditures in opposition to a candidate totaling more than one-sixth of the applicable expenditure limitation specified in this article for that election, then the expenditure limitation for that candidate shall be raised by an amount equal to the amount independently spent in opposition to his or her candidacy. The Commission shall have the responsibility for determining whether independent expenditures have been made in opposition to a particular candidate or candidates and, if so, the amount by which the expenditure limitation shall be raised pursuant to this section.

85507. Expenditure Limitations Lifted—Non-Primary Elections

(a) In any general, special or special runoff election, if a candidate who declines to accept payments from the Campaign Reform Fund and the controlled committee of such candidate receives contributions, makes qualified campaign expenditures, or has cash-on-hand in excess of the applicable expenditure limitation set forth in this article, then the expenditure limitation shall no longer be applicable to all other candidates running for the same seat in the general, special or special runoff election. In addition, the limitation on maximum payments from the Campaign Reform Fund contained in Section 85604 shall no longer be applicable to all other candidates who have agreed to accept payments from the Fund.

(b) In any general, special or special runoff election, if any committee or committees make independent expenditures in support of a candidate totaling more than one-sixth of the applicable expenditure limitation specified in this article for that election, then the expenditure limitation for all other candidates running for the same seat in the general, special, or special runoff election shall be raised by an amount equal to the amount independently spent in support of that candidate. The Commission shall have the responsibility for determining whether independent expenditures have been made in support of a particul[illegible] candidate or candidates and, if so, the amount by which the expendit[illegible] limitation shall be raised pursuant to this section.

(c) In any general, special, or special runoff election, if any committee or committees make independent expenditures in opposition to a candidate totaling more than one-sixth of the applicable expenditure limitation specified in this article for that election, then the expenditure limitation for that candidate shall be raised by an amount equal to the amount independently spent in opposition to his or her candidacy. The Commission shall have the responsibility for determining whether independent expenditures have been made in opposition to a particular candidate or candidates and, if so, the amount by which the expenditure limitation shall be raised pursuant to this section.

85508. Notification by Candidate Who Exceeds Expenditure Limitations

A candidate who has declined to accept payments from the Campaign Reform Fund and receives contributions, makes qualified campaign expenditures, or has cash-on-hand in excess of the applicable expenditure limitations shall notify all opponents and the Commission by telephone and by confirming overnight delivery the day the limitations are exceeded.

85509. Cumulation of Expenditures for Multiple Campaigns on Same Election Date

If an individual who has filed a statement of intention pursuant to Section 85300 to be a candidate for a specific state elective office subsequently withdraws from that campaign and files a statement of intention pursuant to Section 85300 to be a candidate for a different state elective office whose election is to be held on the same date, the Commission shall determine what portion, if any, of the expenditures made by the candidate and his or her controlled committee in the first campaign should be considered as, and cumulated with, qualified campaign expenditures in the subsequent campaign for purposes of determining compliance with the expenditure limitations set forth in this chapter. In making the determination called for in this section, the Commission shall consider what portion, if any, of the payments made in connection with the first campaign may reasonably be said to have assisted the candidate in influencing or attempting to influence the actions of the voters for or against the candidate in the latter campaign.

85510. Surplus and Carryover Funds

(a) Any campaign funds remaining in a state candidate's campaign contribution account at the end of the postelection reporting period following an election, and after all obligations are met by the candidate and his or her committee, shall be considered surplus campaign funds and shall be distribu[illegible] only in accordance with this section.

(b) Following the primary or special election, surplus funds shall [illegible] distributed as follows:

(1) A candidate who has won his or her party's nomination for the ensuing general or special runoff election (or in the case of a candidate for Superintendent of Public Instruction, who has won the right to be a candidate in the ensuing general election) may carry over any surplus funds for use by such candidate in the general or special runoff election, if any. Expenditures made

with carryover funds shall be considered qualified campaign expenditures for the time period in which they are expended pursuant to Section 85512.

(2) A candidate who has not won his or her party's nomination (or in the case of a candidate for Superintendent of Public Instruction, who has not won the right to be a candidate in the ensuing general election) shall distribute any surplus funds according to the requirements of subsections (c)(1) and (c)(3).

(c) Following the general or special runoff election (or, where no runoff election is held, following the special election), surplus funds shall be distributed within one year from the date of the election as follows:

(1) All public funds received by the candidate during the campaign pursuant to Section 85603 shall be repaid to the Campaign Reform Fund as a matter of first priority from any such surplus funds remaining until all such public funds previously received by that candidate have been so repaid.

(2) If any surplus funds remain following compliance with subsection (c)(1), a candidate who has been elected to state office may transfer the remaining funds, subject to the limitations of Section 85412(c), from his or her campaign contribution account into an officeholder expense account established pursuant to Section 85303.

(3) Any remaining surplus funds shall either be returned to contributors through a formula or formulas specified by the Commission, donated to the Campaign Reform Fund, contributed to a political party committee, or donated to any bona fide charitable, educational, civic, religious, or similar tax-exempt organization, where no substantial part of the proceeds will have a material financial effect on the former elected official or any member of his or her immediate family. Any surplus funds contributed to a political party committee pursuant to this section shall be exempt from the contribution limitations of Section 85404.

85511. Expenditures from Officeholder Expense Account

Any expenditures for legitimate officeholder expenses made by a candidate for elective state office from his or her officeholder expense account established pursuant to Section 85303 shall be exempt from the expenditure limitations of this chapter.

85512. Time Periods for Attributing Election Expenditures

(a) For purposes of application of the expenditure limitations set forth in this chapter to primary and general elections held for any state office in June and November of even-numbered years, qualified campaign expenditures made at any time before July 1 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures.

(b) For purposes of application of the expenditure limitations set forth in this chapter to special and special runoff elections, qualified campaign expenditures made at any time after the office has become vacant and up through the date of the special election shall be considered expenditures in the special election, and qualified campaign expenditures made after the date of the special election and through fifty-eight (58) days after the special runoff election shall be considered expenditures in the special runoff election.

(c) Notwithstanding subsections (a) and (b), in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period when the goods or services are used.

85513. Slate Mailers

The Commission shall promulgate regulations governing the application of the limitations in this chapter to slate mailers, as defined in Section 82048.3. The regulations shall set forth the circumstances, if any, under which the expenses incurred in preparing and distributing slate mailers shall be considered contributions, qualified campaign expenditures, or independent expenditures subject to the limitations of this chapter.

Article 6. Campaign Reform Fund

85600. Candidate Acceptance or Rejection of Funds

(a) Each candidate for elective state office, at the time of filing his or her Declaration of Candidacy pursuant to Section 6490 of the Elections Code, shall file a statement of acceptance or rejection of financing from the Campaign Reform Fund. If a candidate agrees to accept financing from the Campaign Reform Fund, the candidate shall comply with the provisions of Article 5 of this chapter.

(b) A candidate who agrees or declines to accept financing from the Campaign Reform Fund may not change that decision, except that a candidate who declines to accept financing from the Campaign Reform Fund in a primary or special election may agree to accept financing from the Campaign Reform Fund in the ensuing general or special runoff election, but only if such candidate did not exceed the applicable expenditure limitation set forth in Article 5 of this chapter during the primary or special election. For primary and general elections held in June and November of even-numbered years, a candidate wishing to change his or her decision and accept financing from the Campaign Reform Fund in the general election must file a statement of acceptance of financing no later than July 1. For elections held on any other date, the Commission shall determine the date by which any candidate wishing to change his or her decision and accept financing from the Campaign Reform Fund must file a statement of acceptance of financing.

(c) No candidate shall be eligible to receive any payment from the Campaign Reform Fund prior to filing a Declaration of Candidacy and statement of acceptance of financing from the Campaign Reform Fund pursuant to this section.

85601. Qualification Requirements

In order to qualify to receive payments from the Campaign Reform Fund, a candidate for elective state office shall meet all of the following requirements:

(a) The candidate has received contributions (other than contributions from the candidate or his or her immediate family) of at least thirty thousand dollars ($30,000) in the case of a candidate for member of the Assembly, of at least fifty thousand dollars ($50,000) in the case of a candidate for member of the Senate or State Board of Equalization, of at least one hundred and fifty thousand dollars ($150,000) in the case of a candidate for Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, or Insurance Commissioner, or of at least four hundred and fifty thousand dollars ($450,000) in the case of a candidate for Governor. Only the first one thousand dollars ($1,000) of any and all contributions received from a single donor shall be counted in determining whether the above thresholds have been met. Only contributions received after the date specified in Section 85411(a) may be counted in meeting the above thresholds, and in no event shall any contribution deposited into an officeholder expense account pursuant to Section 85412 be counted toward meeting the thresholds. For purposes of this subsection, a loan, a pledge, or a non-monetary contribution shall not be considered a contribution.

(b) The candidate is opposed by a candidate running for the same nomination (if in the primary election) or for the same office (if in a general, special, or special runoff election) who either (1) has qualified for payments from the Campaign Reform Fund or (2) has raised, spent or has cash-on-hand of at least forty-five thousand dollars ($45,000) in the case of a candidate for the Assembly, of at least seventy-five thousand dollars ($75,000) in the case of a candidate for the Senate or State Board of Equalization, of at least two hundred and twenty-five thousand dollars ($225,000) in the case of a candidate for Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, or Insurance Commissioner, or of at least six hundred and seventy-five thousand dollars ($675,000) in the case of a candidate for Governor. All funds raised, spent, or on hand in all committees controlled by a single opposing candidate (excluding any officeholder expense account established by an incumbent elected officer pursuant to Section 85303 and any committee primarily formed to support or oppose a ballot measure) shall be cumulated for purposes of this subsection.

(c) The candidate contributes to his or her own campaign from personal funds no more than fifty thousand dollars ($50,000) per election in the case of a candidate for the Legislature or State Board of Equalization, no more than one hundred thousand dollars ($100,000) per election in the case of a candidate for Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, or Insurance Commissioner, and no more than two hundred and fifty thousand dollars ($250,000) per election in the case of a candidate for Governor.

(d) No donor whose contribution to a candidate for elective state office was counted toward achieving the applicable threshold in subsection (a) shall be the recipient or beneficiary of any payment or expenditure made by that candidate or his or her controlled committees unless full and adequate consideration is received by the candidate or his or her controlled committee in exchange for any such payment or expenditure.

85602. Candidate Notification Upon Reaching Qualification Threshold

A candidate for elective state office who does not agree to accept financing from the Campaign Reform Fund shall notify all opponents and the Commission by telephone and by confirming overnight delivery on the day such a candidate raises, spends, or has cash-on-hand in excess of the applicable opponent's threshold amount set forth in Section 85601(b)(2).

85603. Campaign Reform Fund Formula

(a) A candidate for elective state office who is eligible to receive payments from the Campaign Reform Fund shall receive payments on the basis of the following alternative formulae:

(1) For the first two hundred and fifty dollars ($250) of a monetary contribution or contributions (other than a contribution from the candidate or his or her immediate family) from any single individual, a matching ratio of one dollar ($1) from the Campaign Reform Fund for each dollar received.

(2) For the first two hundred and fifty dollars ($250) of a monetary contribution or contributions (other than a contribution from the candidate or his or her immediate family) from any single individual who is domiciled in the candidate's electoral district, a matching ratio of three dollars ($3) from the Campaign Reform Fund for each dollar received.

(b) For purposes of this section, a loan, a pledge or a non-monetary payment shall not be considered a contribution.

(c) Only contributions received after the date specified in Section 85411(a) shall be eligible for matching payments from the Campaign Reform Fund pursuant to this section, and in no event shall any contribution deposited into an officeholder expense account pursuant to Section 85412 be eligible for such matching payments.

85604. Maximum Funds Available to Each Candidate

Except as provided in Sections 85506(a) and 85507(a), no candidate shall receive payments from the Campaign Reform Fund totaling more than one-half of the applicable expenditure limitation specified in Article 5 of this chapter (commencing with Section 85500) for his or her election.

85605. Maximum Funds Available to All Candidates

(a) At the close of the period for filing Declarations of Candidacy pursuant to Section 6490 of the Elections Code for the statewide primary election held in each even-numbered year, the Commission, in consultation with the Controller, shall determine the total amount of money residing in the Campaign Reform Fund as of that date. No more than one-half (1/2) of the total amount of money residing in the Fund as of that date shall be made available for disbursement to qualifying candidates in the ensuing primary election.

(b) For primary elections held in each even-numbered year that is not evenly divisible by the whole number four, no more than three-fifths (3/5) of the money that has been made available for the primary election pursuant to subsection (a) shall be available for disbursement to qualifying statewide candidates or candidates for the State Board of Equalization.

(c) The Controller shall disburse money from the Campaign Reform Fund to qualifying candidates on a first-come, first-served basis, as determined by the Commission. In no event, however, shall the Controller disburse any more money to qualifying candidates in the primary election than the amounts determined to

be available pursuant to subdivisions (a) and (b) of this section. No payments of public matching funds to qualifying candidates shall be made from any source other than the Campaign Reform Fund.

(d) Commencing one week after the date specified in subdivision (a), and continuing until the date of the ensuing statewide general election, the Commission, in consultation with the Controller, shall issue bi-weekly reports on the financial status of the Campaign Reform Fund. Such reports shall include an accounting of how much money remains available in the Fund for distribution to qualifying candidates, how many candidates have declared their intention to accept financing and have qualified for financing from the Fund, the comparable data regarding eligible candidates and available funds at similar stages of prior elections, and any other information that would assist candidates in estimating whether sufficient funds are likely to be available in the Campaign Reform Fund to satisfy the full entitlements of qualifying candidates. The Controller shall provide the Commission with any information necessary for the Commission to fulfill its responsibilities under this section.

85606. Candidate Request for Payment

The Commission shall determine the information to be submitted by a candidate in order to qualify for payment from the Campaign Reform Fund. A candidate may not request less than ten thousand dollars ($10,000) in payments at any one time from the Campaign Reform Fund, provided, however, that in the 30 days preceding an election, a candidate may not request less than two thousand five hundred dollars ($2,500) in such payments.

85607. Timing of Payments to Candidates

The Controller shall make payments from the Campaign Reform Fund in the amount certified by the Commission. Payments shall be made no later than 10 business days after receipt of the request from the candidate, provided, however, that in the last 30 days preceding an election, payments shall be made no later than 5 business days after receipt of the request.

Article 7. Independent Expenditures

85700. Identification of Sponsor of Independent Expenditures

(a) Any person who makes independent expenditures exceeding five hundred dollars ($500) for any mass mailing, printed material, outdoor advertising, radio or television broadcast, or any other form of political advertisement which supports or opposes any candidate for elective office shall include in such communication a notice identifying the true name of the person or persons paying for the communication and stating that the communication has not been authorized by any candidate or approved by any election official.

(b) The Commission shall promulgate regulations to implement the requirements of subsection (a) for each medium of communication. The Commission's regulations shall ensure that the notice required by this section is prominently displayed or broadcast so as to be clearly legible, audible, or visible by its intended audience, and that sufficient identifying information is included to permit the audience to ascertain the true source of payment for the communication. In the case of a television broadcast, the Commission's regulations shall ensure that the notice required by this section shall be both visible and audible.

85701. Contribution Limitations

No person, political committee, or small-contributor political action committee which makes independent expenditures supporting or opposing a candidate for elective office shall accept any contribution in excess of the amounts set forth in Sections 85401(b), 85402(b) and 85403(b).

85702. Limitations on Persons Who Make Independent Expenditures and Contributions to Candidates

(a) Any person, political committee, or small-contributor political action committee which makes a contribution of five hundred dollars ($500) or more to a candidate for elective office shall be considered to be acting in concert with that candidate and shall not make independent expenditures and contributions which in combination exceed the amounts set forth in Sections 85401 through 85403 in support of that candidate or in opposition to that candidate's opponent or opponents.

(b) No committee which makes independent expenditures supporting or opposing a candidate for elective office shall have as officers individuals who serve as officers on any other committee which makes contributions supporting or opposing the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee which supports or opposes the same candidate. This subsection shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which candidate or candidates receive contributions.

85703. Reproduction of Materials

Any person who, for the purpose of supporting or opposing candidates for elective office, reproduces, broadcasts or distributes any material which is drafted, printed, prepared or previously broadcast by a candidate or a committee controlled by such a candidate shall report such an expenditure as a non-monetary contribution to such candidate or committee.

85704. Notice of Independent Expenditures

Any person, political committee, or small-contributor political action committee which makes independent expenditures totaling more than twenty-five thousand dollars ($25,000) in support of or in opposition to any candidate for state elective office shall notify the Commission and all candidates in that election by telephone and confirming letter by overnight delivery 1) when the first twenty-five thousand dollars ($25,000) is expended, 2) when any of the applicable threshold amounts set forth in Sections 85506(b) and (c) and 85507(b) and (c) is exceeded, and 3) each time thereafter that a cumulative additional ten thousand dollars ($10,000) is expended.

Article 9. Agency Responsibilities

85900. Duties of the Fair Political Practices Commission

The Fair Political Practices Commission, in addition to its responsibilities set forth in Sections 83100 et seq. and elsewhere in this chapter, shall also:

(a) Commencing on January 1, 1994, adjust the expenditure limitations, contribution limitations, and public financing provisions (excluding the state income tax check-off amount) in January of every even-numbered year to reflect any increase or decrease since January 1, 1991, in the state appropriation limitation in the manner specified in Sections 1 and 8 of Article XIIIB of the state Constitution. Such adjustments shall be rounded off to the nearest hundred for the limitations on contributions, the nearest five thousand for the limitations on expenditures and public financing qualification and limitations provisions, a[nd the] nearest fifty dollars for the Campaign Reform Fund matching limit.

(b) Prescribe the necessary forms for implementing the requirements of this chapter, including any additions to or modification of the contents of campaign statements as specified in Section 84211 that will assist the Commission and the public in monitoring compliance with the requirements of this chapter.

(c) Prescribe and implement procedures for verifying requests for payment from the Campaign Reform Fund.

(d) In coordination with other governmental agencies and private nonprofit organizations, publicize the availability of the voluntary tax check-off under Revenue and Taxation Code Section 18775 through the use of public service announcements (PSAs), notifications to tax preparers, and other means designed to increase taxpayers' awareness of their ability to designate funds for deposit into the Campaign Reform Fund.

(e) Prepare and release studies on the impact of this title. These studies shall include recommendations for legislative action which would further the purposes of this title.

85901. Duties of the Franchise Tax Board

The Franchise Tax Board shall audit candidates who received payments from the Campaign Reform Fund in accordance with the procedures set forth in Sections 90000 et seq.

SECTION 28. Section 82024 of the Government Code is amended to read:

82024. *Elective State Office*

"Elective state office" means the office of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, *Insurance Commissioner*, member of the Legislature and member of the State Board of Equalization.

SECTION 29. Section 82053 of the Government Code is amended to read:

82053. *Statewide Elective Office*

"Statewide elective office" means the office of Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, ~~and~~ Superintendent of Public Instruction *and Insurance Commissioner*.

SECTION 30. Chapter 18.6 (commencing with Section 18775) is added to Part 10 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 18.6. CAMPAIGN REFORM FUND DESIGNATION

18775. Tax Checkoff

(a) The Campaign Reform Fund is hereby created. Every individual wh[ose] income tax liability for any taxable year is five dollars ($5) or more m[ay] designate five dollars ($5) of that tax liability to be deposited into the Campai[gn] Reform Fund. In the case of a joint return of husband and wife having an income tax liability of ten dollars ($10) or more, each spouse may designate that five dollars ($5) of that tax liability shall be paid to the Fund. Taxpayer designations of funds shall not increase that taxpayer's tax liability. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not at least equal the taxpayer's liability, returns shall be treated as though no designation has been made. Notwithstanding Government Code Section 16305.7, interest earned on all assets and funds constituting a part of the Campaign Reform Fund shall be credited to the Fund as received.

(b) Money in the Campaign Reform Fund shall be available for distribution in accordance with the provisions of Chapter 5 of Title 9, commencing with Section 85100 of the Government Code. All funds transferred into the Campaign Reform Fund pursuant to this section and Section 18776 are hereby continuously appropriated without regard to fiscal years for distribution in accordance with the purposes set forth in this chapter and in Chapter 5 of Title 9 of the Government Code.

(c) The Franchise Tax Board shall place on the top third of the first page of all personal tax returns required to be filed on or after January 1, 1991, the following language:

	Do you want $5 of the taxes you are already paying to go to this Fund?
CAMPAIGN	*[ ] YES [ ] NO*
REFORM	*If joint return, does your spouse want $5 to go to this Fund?*
FUND	*[ ] YES [ ] NO*
	NOTE: Checking "YES" will not increase the taxes you pay or reduce your refund.

(d) The Franchise Tax Board shall notify the Controller of the amount of money designated pursuant to this section to be transferred to the Campaign Reform Fund as the income tax returns are received by the Franchise Tax Board from the taxpayers. The Controller shall then transfer from the Personal Inco[me] Tax Fund to the Campaign Reform Fund an amount equal to the sum of amounts designated by individuals pursuant to this section.

18776. Appropriation to Campaign Reform Fund

Commencing July 1, 1991, and every July 1 thereafter, there is hereby appropriated from the General Fund the sum of $5,000,000, adjusted annually in the same manner as the state appropriation limitation is adjusted under Sections 1 and 8 of Article XIIIB of the state Constitution, for deposit into the Campaign Reform Fund, an amount which represents the estimated annual savings from

repeal of the credit claimed and allowed taxpayers under former Section 17053.14 of the Revenue and Taxation Code.

18777. Adjustment of Campaign Reform Fund Revenues

(a) On January 1, 1995, and on January 1 of every fourth year thereafter, the Commission shall determine, on the basis of an analysis of historical data and projections of future demands, whether there are likely to be sufficient funds available in the Campaign Reform Fund to provide matching funds pursuant to Article 6 (commencing with Section 85600) of Chapter 5 of the Government Code to satisfy the full entitlements of all qualifying candidates for state elective office in the next statewide general election.

(b) If the Commission determines that the available funds are likely to be inadequate to fulfill the purposes of Chapter 5 (commencing with Section 85100) of the Government Code, it shall direct that the maximum amount of tax liability which may be designated by taxpayers on their income tax returns for deposit into the Campaign Reform Fund pursuant to Section 18775 be increased by no more than one dollar ($1) beginning with the tax year for the odd-numbered year following the year of the most recent statewide general election. In no event, however, shall the maximum tax liability which may be designated for deposit into the Fund under Section 18775 exceed ten dollars ($10) per taxpayer.

(c) If the Commission determines that the available funds are likely to be more than adequate to satisfy the full entitlements of all qualifying candidates for state elective office in the next statewide general election, it shall direct that the maximum amount of tax liability which may be designated by taxpayers on their income tax returns for deposit into the Campaign Reform Fund pursuant to Section 18775 be decreased by no more than one dollar ($1) beginning with the tax year for the odd-numbered year following the year of the most recent statewide general election. In no event, however, shall the maximum tax liability which may be designated for deposit into the Fund under Section 18775 be less than one dollar ($1) per taxpayer.

SECTION 31. Section 17053.14 of the Revenue and Taxation Code is repealed.

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

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

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

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

~~(c) In the case where the credit allowed under this section exceeds the net tax for the taxable year, that portion of the credit which exceeds the net tax may be carried over to the net tax in succeeding taxable years until the credit is used. The credit shall apply to the earliest taxable years possible.~~

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

SECTION 32. Section 83122.5 is added to the Government Code, to read:

83122.5. Appropriation to Fair Political Practices Commission

Commencing January 1, 1991, there is hereby appropriated from the General Fund to the Fair Political Practices Commission an amount equal to the sum of the appropriation to the Commission in fiscal year 1989-90 for the implementation, administration, and enforcement of Propositions 68 and 73 plus seven hundred and fifty thousand dollars ($750,000), adjusted for cost of living changes, during each fiscal year, for expenditures to support the operations of the Commission to carry out its implementation and enforcement responsibilities pursuant to the Campaign Finance Reform Act of 1990. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate additional amounts to the Commission and other agencies as may be necessary to carry out the provisions of this title.

SECTION 33. Section 91000 of the Government Code is amended to read:

91000. Violations~~;~~*:* Criminal

(a) Any *knowing or willful* violation of Chapter 5 of this title commencing with Section 85100 is a public offense punishable by imprisonment in a state prison or in a county jail for a period not exceeding one year.

(b) Any *knowing or willful* violation of any other section of this title is a misdemeanor.

(c) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars ($10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction of each violation.

(d) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

SECTION 34. Section 91005 of the Government Code is amended to read:

91005. *Civil Liability for Violations*

(a) Any person who makes or receives a contribution, gift or expenditure in violation of Section 84300, 84304, *85303, 85400–85412, 85500–85505, 85510, 85600–85601, 85603, 85605, 85700–85704,* 86202, 86203~~,~~ or 86204, or Article 8 (commencing with Section 85800) of Chapter 5 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to ~~five hundred dollars ($500)~~ *one thousand dollars ($1,000)* or three times the amount of the unlawful contribution, gift or expenditure, whichever is greater.

(b) Any designated employee or public official specified in Section 87200~~,~~ ~~other than an elected state officer,~~ who realizes an economic benefit as a result of a violation of Section 87100 or of a disqualification provision of a Conflict of Interest Code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit.

SECTION 35. Section 83116 of the Government Code is amended to read:

83116. Violation of Title

When the Commission determines there is probable cause for believing this title has been violated, it may hold a hearing to determine if such a violation has occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5, Sections 11500 et seq.). The Commission shall have all the powers granted by that chapter.

When the Commission determines on the basis of the hearing that a violation has occurred, it shall issue an order which may require the violator to:

(a) Cease and desist violation of this title;

(b) File any reports, statements or other documents or information required by this title; and

(c) Pay a monetary penalty of up to ~~two~~ *five* thousand dollars ~~($2,000)~~ *($5,000)* for each violation to the ~~General Fund of the state~~ *Campaign Reform Fund established pursuant to Chapter 18.6 (commencing with Section 18775) of Part 10 of Division 2 of the Revenue and Taxation Code*.

When the Commission determines that no violation has occurred, it shall publish a declaration so stating.

TITLE X.

OPEN MEETINGS

SECTION 36. Article IV, Section 7 of the State Constitution, as amended by Proposition 112 at the June 5, 1990 Primary Election, is further amended to read:

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

(c) (1) The proceedings of each house and the committees thereof shall be open and public. However, closed sessions may be held solely for any of the following purposes:

(A) To consider the appointment, employment, evaluation of performance, or dismissal of a public officer or employee, to consider or hear complaints or charges brought against a Member of the Legislature or other public officer or employee, or to establish the classification or compensation of ~~an~~ *any* employee of the Legislature.

(B) To consider matters affecting the safety and security of Members of the Legislature or its employees or the safety and security of any buildings and grounds used by the Legislature.

(C) To confer with, or receive advice from, its legal counsel regarding pending or reasonably anticipated, or whether to initiate, litigation when discussion in open session would not protect the interests of the house or committee regarding the litigation.

(2) A caucus of the Members of the Senate, the Members of the Assembly, or the Members of both houses, which is composed of ~~the~~ *all* members of the same political party, may meet in closed session.

(3) The Legislature shall implement this subdivision by concurrent resolution adopted by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by statute, and shall prescribe that, when a closed session is held pursuant to paragraph (1), reasonable notice of the closed session and the purpose of the closed session shall be provided to the public. If there is a conflict between a concurrent resolution and statute, the last adopted or enacted shall prevail.

(d) Neither house without the consent of the other may recess for more than 10 days or to any other place.

TITLE XI.

GENERAL PROVISIONS

SECTION 37. Amendments

(a) The provisions of Section 81012 of the Government Code governing legislative amendments to the Political Reform Act of 1974 shall apply to the provisions of this measure.

(b) It is the will of the people that Sections 9 through 24 of this measure should be interpreted to harmonize with and not to supercede any provision of any law enacted in calendar year 1990, including any provision of any other measure passed at the same election as this act, that imposes more stringent restrictions on the activities or interests of elected officers that might conflict with the proper discharge of their duties and responsibilities.

SECTION 38. Construction

This measure shall be liberally construed to accomplish its purposes.

SECTION 39. Severability Clause

If any provision of this measure or the application thereof to any person or circumstances is held invalid, the remainder of this measure, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it was held invalid, shall not be affected thereby, and to this end, the provisions of this measure are severable.

SECTION 40. Effective Date

The provisions of this measure shall go into effect January 1, 1991, except that Sections 30 through 33 shall go into effect immediately.

Proposition 132: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding an article thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED ADDITION OF ARTICLE XB

The people of California find and declare that:

The marine resources of the State of California belong to all of the people of the state and should be conserved and managed for the benefit of all users and people concerned with their diversity and abundance for present and future generations' use, needs and enjoyment. Current state laws allow the use of indiscriminate and destructive gear types (gill nets and trammel nets) for the commercial take of fish in our nearshore waters that entangle thousands of mammals (whales, dolphins, sea otters, sea lions, porpoise, etc.) sea birds and hundreds of thousands of non-targeted fish annually. These indiscriminate gear types result in the tragic death of many non-targeted species unfortunate enough to be caught in them. It has been reported that seventy-two (72) percent of what is entangled and caught in a gill net or trammel net is unmarketable, and it is returned to the ocean dead or near dead, thereby depleting our ocean resources at an accelerated rate.

In order to restore and maintain our ocean resources, increased scientific and biological research and reliable data collection is urgently needed to provide credible information as to the long-term protection and management of the mammal and fish populations in our coastal waters. Therefore, the law governing the use of gill nets and trammel nets in our coastal waters, as well as law establishing ecological reserves for scientific and biological studies and data collection to ensure abundant ocean resources should be permanently established as follows:

Amendment to the California Constitution adding Article XB as follows:

ARTICLE XB

MARINE RESOURCES PROTECTION ACT OF 1990

SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990.

SEC. 2. (a) "District" means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the state.

(d) "Zone" means the Marine Resources Protection zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

SEC. 3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

SEC. 4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5 of the Fish and Game Code, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The Director of the Department of Fish and Game shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

SEC. 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850–7852.3 of the Fish and Game Code.

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net.

SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

Calendar Year	*Fee*
1991	*$250*
1992	*500*
1993	*1,000*

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department's failure to verify landings may appeal that decision to the Fish and Game Commission.

(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article.

SEC. 8. (a) There is hereby created the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1, 1991, the Department of Fish and Game shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All interest accrued from the department's retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article.

(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game Code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person's sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3). This subdivision does not apply to any one-day fishing license.

(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920 of the Fish and Game Code, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3).

(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.

(f) This section shall become inoperative on January 1, 1995.

SEC. 9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act.

SEC. 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds.

SEC. 11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.

SEC. 12. To increase the state's scientific and biological information on the ocean fisheries of this state, the Department of Fish and Game shall establish a program whereby it can monitor and evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry.

SEC. 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter or process

fish for commercial purposes for six months. The penalty for a second or subsequent violation of the provisions of Sections 3 and 4 of this article is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) Notwithstanding any other provisions of law, a violation of Section 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.

(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

SEC. 14. Prior to January 1, 1994, the Fish and Game Commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources.

SEC. 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds.

SEC. 16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Proposition 133: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds and repeals a division of the Health and Safety Code, adds a section to the Penal Code, and amends, repeals, and adds sections of the Revenue and Taxation Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. (a) This measure shall be known and may be cited as the Safe Streets Act of 1990.

(b) It is the intent of the people, through the adoption of the California Safe Streets Act of 1990, to ensure all of the following:

(1) Repeat violent offenders and drug criminals serve out their full sentences.

(2) Law enforcement has the capability to reduce drug-related crime.

(3) Children are kept from entering the world of drug abuse.

SEC. 2. The people find and declare all of the following:

(a) The number of drug-related major crimes in California is increasing every year, reflecting the growing impact of the drug crisis and the fact that reducing illegal drug activity is an integral part of the effort to reduce crime.

(b) Many major crimes are committed by repeat offenders who have been released from prison before they serve their full sentences.

(c) Federal assistance in the war on drugs has fallen far behind the increased need.

(d) Drug abuse costs California society at least six billion dollars ($6,000,000,000) a year.

(e) Eleven percent of babies born in the United States in 1988 were exposed to illegal drugs during the mother's pregnancy.

(f) Drug use and violent crime are closely related, as evidenced by the finding that more than half of those arrested for serious crimes in 14 major cities, and who volunteered for drug testing, are found to be drug users.

(g) Drug-related absenteeism and medical expenses cost businesses about 3 percent of their payroll.

(h) Thousands of transactions involving illegal drugs occur in the open because there are not enough law enforcement personnel to establish a presence.

(i) A successful attempt to fight the war on drugs must be comprehensive, guaranteeing punishment for those who violate the law, and protecting children before they become involved with drugs.

SEC. 3. Division 10.7 (commencing with Section 11999) is added to the Health and Safety Code, to read:

DIVISION 10.7. SAFE STREETS FUND

11999. (a) There is in the Treasury the Safe Streets Fund, which is continuously appropriated, without regard to fiscal years, to the Controller, for allocation as specified in this division.

(b) Money appropriated pursuant to subdivision (a) shall be subject to all of the following requirements:

(1) It shall be used only for the purposes specified in this section.

(2) It shall not be used to supplant current levels of funding for existing programs, plus normal cost-of-living increases, on the date the measure adding this section to the Health and Safety Code is adopted by the voters.

(3) It shall be used only to supplement current and future state funding levels appropriated from sources other than this section.

(4) It shall not be used as part of the Special Fund for Economic Uncertainties or any other reserves.

(c) Any state or local government entity receiving funds through this section shall maintain a level of financial support for a program funded under this division which is not less than previous expenditures in accordance with standards set by any entity allocating funds pursuant to this division, which, for purposes of this subdivision, shall include the Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare, as appropriate.

11999.1. Funds allocated to the fund and any of its accounts pursuant to this division shall not revert to the General Fund.

11999.2. Pursuant to Section 4 of Article XIII B of the California Constitution, the state appropriations limits established by Article XIII B thereof shall be adjusted to include the appropriations made by this division for the four-year period commencing July 1, 1991.

11999.3. (a) There is in the fund the Anti-Drug Law Enforcement Account.

(b) Forty percent of any money received by the fund shall be transferred to the Anti-Drug Law Enforcement Account.

(c) Money in the Anti-Drug Law Enforcement Account shall be allocated in the following manner:

(1) Ninety percent shall be allocated to the Attorney General for distribution to local law enforcement agencies of cities, cities and counties, and counties, for personnel, equipment, and activities related to street level law enforcement. These funds shall also be used to support community organizations attempting to fight crime and drugs. These funds shall be distributed pursuant to a formula developed by the Attorney General, in consultation with local law enforcement officials from throughout the state, which takes into account the following factors:

(A) Population.

(B) Gang activity.

(C) Property crime.

(D) Demographics.

(E) Local drug seizures.

(F) Rates of drug-related arrests and convictions.

(G) Other factors determined by the Attorney General to be relevant to those anti-drug activities described in this section.

(2) Five percent shall be allocated to the Attorney General for distribution to district attorneys' offices to increase their prosecutorial capabilities. The funds shall be distributed pursuant to a formula developed by the Attorney General, in consultation with the district attorneys throughout the state, which takes into account those factors listed in paragraph (1).

(3) Five percent shall be allocated to the Judicial Council to increase the ability of the courts to process drug-related cases. The funds shall be used to fund new judgeships and their associated costs. Funds allocated pursuant to this subparagraph which are not used for new judgeships at the end of the fiscal year shall be allocated by the Judicial Council, on a grant basis, to counties for programs which will substantially contribute to the resolution of drug-related cases.

11999.4. (a) There is in the fund the Anti-Drug Education Account.

(b) Forty-two percent of any money received by the fund shall be transferred to the Anti-Drug Education Account, which shall be distributed to the Superintendent of Public Instruction, for allocation as follows:

(1) Twenty-five percent of funds in the account shall be allocated to schools for anti-drug education and counseling programs, including peer counseling programs, which may be conducted during or after normal school hours. All school districts and county offices of education shall provide age-appropriate anti-drug instruction in grades K to 12, inclusive, in compliance with guidelines established by the Superintendent of Public Instruction. Funds shall be allocated pursuant to this paragraph pursuant to the following requirements:

(A) Seventy percent shall be allocated annually to eligible school districts and county offices of education in equal amounts per unit of average daily attendance. For purposes of this subdivision, the Superintendent of Public Instruction shall use annual average daily attendance reported for the fiscal year immediately prior to the year of allocation. No school district shall be eligible to receive funds pursuant to this subdivision until the appropriate county superintendent of schools has certified to the Superintendent of Public Instruction that the local educational agency's program is in accordance with the guidelines established by the Superintendent of Public Instruction.

(B) Thirty percent shall be allocated to school districts or county offices of education for schools, which, as determined by the Superintendent of Public Instruction, require the funds due to the high intensity of drug abuse activity in the agency's jurisdiction.

(2) Twenty percent of funds in the account shall be granted or allocated by contract by the Superintendent of Public Instruction to school districts, county offices of education, community organizations, and agencies of local government, for out-of-classroom programs designed to provide students with alternative activities to drug use, and to teach self-respect and respect for others, including, but not limited to, afterschool athletic programs, homework centers, parental involvement programs, job experience programs with private employers, and community work programs. The amount of any grant or contract made pursuant to this subdivision shall be determined by the Superintendent of Public Instruction, provided that the total allocations made to agencies within a county are proportional to public school enrollment of that county.

(3) Thirty-five percent of funds in the account shall be allocated by the Superintendent of Public Instruction to agencies that operate state approved child development and preschool programs that, as determined by the Superintendent of Public Instruction, require the funds due to the high intensity of drug abuse activity in the agency's jurisdiction. The amount of any allocation made pursuant to this subparagraph shall be determined by the Superintendent of Public Instruction, provided that the total allocations made to agencies within a county are proportioned according to the existing allocation formula. The Superintendent of Public Instruction shall give priority to programs in the following order:

(A) Programs which serve children identified pursuant to guidelines adopted by the Superintendent of Public Instruction as being at risk of unlawful drug use or involvement.

(B) State-approved preschool programs.

(4) (A) Ten percent shall be allocated to the Superintendent of Public Instruction for coordinated services to at-risk students and for matching federal anti-drug education funding.

(B) For purposes of this paragraph, "coordinated services" means those services which link together at least two needed services provided by separate governmental agencies or community organizations.

(5) (A) Ten percent shall be allocated by the Superintendent of Public Instruction for incentive grants to local school districts, consortia of youth services providers, or county offices of education for partnership projects based on compacts or agreements, for measurable improvements in school achievement which link performance to job placement with local businesses.

(B) The incentive grants provided pursuant to subparagraph (A) shall require matching funds of at least one dollar ($1) for each dollar of the state grant made pursuant to subparagraph (A).

(C) The criteria for award of the grants provided pursuant to subparagraph (A) shall include, but not be limited to, demonstrated commitment to collaborative services on the part of business, school, and community leaders, demonstrated progress toward setting measurable goals for student achievement that will form the basis for all projects and partnership activities, project outlines for drug prevention and intervention strategies, and identification of target student population and unmet service needs for that population.

11999.5. (a) There is in the fund the Prison and Jail Account.

(b) Ten percent of the funds received by the fund shall be transferred to the Prison and Jail Account, for allocation as follows:

(1) Sixty-five percent shall be allocated to the Board of Corrections for allocations to counties for the operation and construction of county jails. The Board of Corrections shall give priority to those counties with the greatest need and the fewest immediate available local resources.

(2) Twenty percent shall be allocated to the Director of Corrections for increased operating costs of the state prisons resulting from the addition of Section 2933.5 to the Penal Code by the adoption of the Safe Streets Act of 1990.

(3) (A) Fifteen percent shall be allocated to the Secretary of the Youth and Adult Correctional Agency for drug treatment programs for prisoners in, and parolees of, state prisons and youth correctional facilities. The Secretary of the Youth and Adult Correctional Agency shall allocate the funds to the Department of Corrections and the Department of the Youth Authority.

(B) The Director of Corrections shall distribute the funds allocated to the Department of Corrections by the Secretary of the Youth and Adult Correctional Agency pursuant to subparagraph (A).

(C) The Director of the Youth Authority shall distribute the funds allocated to the Department of the Youth Authority by the Secretary of the Youth and Adult Correctional Agency.

11999.6. (a) There is in the fund the Drug Treatment Account.

(b) (1) Eight percent of the funds received by the fund shall be transferred to the Drug Treatment Account, for allocation to the Secretary of Health and Welfare for anti-drug health and rehabilitation programs and other supportive services, and the treatment and prevention of drug-induced conditions. The Secretary of Health and Welfare shall allocate the funds to the Department of Alcohol and Drug Programs and to those state entities which comprise the Interagency Task Force on Perinatal Substance Abuse.

(2) The Director of Alcohol and Drug Programs shall distribute funds allocated to the department by the Secretary of Health and Welfare. The Director of Alcohol and Drug Programs shall distribute the funds to county alcohol and drug abuse agencies pursuant to a formula developed by the director which takes into account the following factors:

(A) Population.

(B) Drug-related deaths.

(C) Drug-related emergency room visits.

(D) Drug-related arrests.

(E) Demographics.

(F) Poverty rates.

(G) The ability and willingness of local leaders, citizens, and entities to organize a community-based response to combat drugs.

(H) Other factors determined by the Director of Alcohol and Drug Programs to be relevant to those anti-drug activities described in this section.

(3) The Secretary of Health and Welfare shall distribute funds allocated to the entities which comprise the Interagency Task Force on Perinatal Substance Abuse in accordance with task force goals.

11999.7. Not more than 1 percent of the total amount allocated from any account in the fund shall be used for administrative expenses by the Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare, including the requirements specified in Sections 11999.8, 11999.10, and 11999.11.

11999.8. By or before April 1, 1991, and on April 1 of each year thereafter, the Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare shall each submit to the Governor and to appropriate committees of the Legislature an expenditure report outlining program expenditures for the following year.

11999.9. (a) By or before April 1, 1992, and on April 1 of each year thereafter, the Auditor General shall submit to the Governor and the appropriate committees of the Legislature a report which contains a description of how funds distributed to the Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare pursuant to this division were allocated, and an evaluation of the programs for which the funds were used.

(b) The Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare shall reimburse the Auditor General for all reasonable costs incurred by the Auditor General pursuant to subdivision (a).

11999.10. By December 1, 1993, the Attorney General, the Superintendent of Public Instruction, the Secretary of the Youth and Adult Correctional Agency, and the Secretary of Health and Welfare shall each recommend to the Governor whether the programs under their jurisdiction established by this division should be continued, modified, or terminated.

11999.11. By January 1, 1994, the Governor shall recommend to the Legislature whether the program established by this division and the amendment of Sections 6051, 6201, and 7102 of the Revenue and Taxation Code by the Safe Streets Act of 1990 should be continued, modified, or terminated.

11999.12. For purposes of this division, "drug" does not include alcohol or tobacco.

11999.13. For purposes of this division, "fund" means the Safe Streets Fund.

11999.14. This division shall remain operative only until July 1, 1995, and shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, passed by a two-thirds vote, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 4. Section 2933.5 is added to the Penal Code, to read:

2933.5. (a) Any person described in paragraph (1) or (2) who is convicted of committing one or more of the crimes specified in that paragraph on or after the effective date of this section shall not be eligible for credits, as specified in Sections 2931 and 2933:

(1) Any person convicted in separate proceedings of committing two or more of the following crimes, committed within a 20-year period, which period shall not include any time served in a state prison or county jail:

(A) Murder or voluntary manslaughter.

(B) Mayhem.

(C) Rape.

(D) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

(E) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

(F) Attempted murder.

(G) Any violation of subdivision (a) of Section 11370.4 of the Health and Safety Code involving the possession for sale, sale, or transportation of more than three pounds of heroin, cocaine, or cocaine-base.

(H) Any violation of subdivision (b) of Section 11370.4 of the Health and Safety Code involving the possession for sale, sale, or transportation of methamphetamine, amphetamine, and their salts and isomers, or PCP and its analogs, in excess of three pounds by weight or nine gallons by liquid volume.

(I) Any violation of Section 11379.8 of the Health and Safety Code involving the manufacturing, compounding, converting, producing, delivering, processing, or preparing those controlled substances to which Section 11379.8 of the Health and Safety Code applies in excess of one pound of solid substance by weight or three gallons of liquid by volume.

(J) Conspiracy to violate subdivision (a) or (b) of Section 11370.4 of the Health and Safety Code or Section 11379.8 of the Health and Safety Code in the amount specified in subparagraphs (G), (H), and (I), as appropriate.

(K) Any violation of Section 11353 of the Health and Safety Code involving an adult inducing, using, or employing a minor to violate Health and Safety Code provisions.

(L) Any violation of Section 11353.5 of the Health and Safety Code involving an adult selling or distributing a controlled substance on school grounds or public playgrounds during school hours to minors under the age of 14 years.

(2) Any person convicted of the following crimes, when the offense or offenses involved two or more victims and at least one of the victims died of injuries sustained as a result of one of the following crimes:

(A) Murder.

(B) Attempted murder.

(C) Voluntary manslaughter.

(b) (1) Upon conviction of any crime described in subdivision (a), the sentencing judge shall determine if this section applies to the defendant.

(2) If the sentencing judge determines, pursuant to paragraph (1) or (2) of subdivision (a), that this section applies to the defendant, no credits shall be given with respect to the sentence of that defendant pursuant to Section 2931 or 2933, or both.

(c) (1) The conviction of any crime specified in paragraph (1) of subdivision (a) shall be applied with respect to the application of this section whether the conviction occurred before or after the effective date of this section.

(2) This section shall apply to the conviction of any crime specified in paragraph (2) of subdivision (a) which occurs after the operative date of this section.

(d) This section shall become operative January 1, 1991.

SEC. 5. 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 *to and including June 30, 1991, and at the rate of 5¼ percent on and after July 1, 1991, and to and including June 30, 1995, and at the rate of 4¾ percent* thereafter.

SEC. 6. 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 1973, and to and including March 31, 1974, and at the rate of 4¾ percent *to and [in]cluding June 30, 1991, and at the rate of 5¼ percent on and after July 1, 1991, [an]d to and including June 30, 1995, and at the rate of 4¾ percent* thereafter.

SEC. 7. 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 [La]w (Part 3 (commencing with Section 8601)), shall be transferred to the [Dis]aster 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) (A) During the period commencing July 1, 1991, and ending June 30, 1995, all revenues, less refunds and revenues subject to Article XIX of the State Constitution, derived under this part in excess of the 4¾-percent rate, as estimated by the board, shall, with the concurrence of the Department of Finance, be transferred to the Safe Streets Fund.

(B) The estimate required by subparagraph (A) shall be based on taxable transactions occurring during a calendar year.

(C) Transfers to the Safe Streets Fund shall be made quarterly.

(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.

(e) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a statute, passed by a two-thirds vote, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 8. Section 7102 is added to the Revenue and Taxation Code, 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.

(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.

(e) This section shall become operative January 1, 1996.

SEC. 9. The provisions of this act may be amended by statute, which is passed by the Legislature with a two-thirds vote in each house, so long as the amendments are consistent with the purposes of this act as expressed on the date of adoption by the voters.

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.

Proposition 134: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding sections thereto, and adds a chapter to the Revenue and Taxation Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE ALCOHOL TAX ACT OF 1990

SECTION 1. This measure shall be known and may be cited as the Alcohol Tax Act of 1990.

SECTION 2. The people find and declare as follows:

(a) Alcohol use drains California of approximately $13.6 billion annually in increased health care costs, higher crime rates, lost productivity, environmental damage, and injuries from alcohol-related accidents and abuse.

(b) Alcohol-related accidents are the leading cause of death among teenagers and the cause of many permanently disabling injuries.

(c) There is a strong correlation between alcohol and other drug use.

(d) Meeting the need and demand for alcohol and other drug treatment and [rec]overy programs is an increasingly expensive burden to all California taxpayers.

(e) The use of alcohol and other drugs is a major cause of hospital emergency room and trauma care treatment, and therefore greatly contributes to the need for emergency medical air-transportation services.

(f) The use of alcohol and other drugs is closely associated with mental illness and contributes enormously to the cost of treating the mentally ill.

(g) The use of alcohol and other drugs contributes significantly to vandalism, litter, and unruly and criminal behavior in California's parks and recreation facilities.

(h) The use of alcohol and other drugs is a major factor in the majority of child and spousal abuse cases, and is also frequently associated with abuse of elderly, mentally-ill and mentally-retarded residents of long-term care facilities.

(i) Alcohol use during pregnancy causes approximately 5,000 children to be born in California each year with alcohol-related birth defects; and other drug use during pregnancy, especially cocaine, affects thousands of babies born each year.

(j) Drinking and driving, and driving under the influence of other drugs, is the major cause of traffic accidents and fatalities in California each year.

(k) Alcohol and other drug-related crimes are an increasing burden to law enforcement and the criminal justice system in California.

(l) While the staggering cost of alcohol abuse is borne by all Californians, 67 percent of the alcohol is consumed by only 11 percent of the population.

(m) An increase in the excise tax levied on alcoholic beverages equivalent to a five cents ($0.05) per drink is a fair and appropriate way to reduce alcohol's staggering burden on all California taxpayers.

SECTION 3. Section 7 is added to Article XIII A of the Constitution, to read:

SECTION 7. Section 3 does not apply to the Alcohol Tax of 1990.

SECTION 4. Section 13 is added to Article XIII B of the Constitution, to read:

SECTION 13. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Alcohol Surtax Fund created by the Alcohol Tax Act of 1990. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Alcohol Surtax Fund created by the Alcohol Tax Act of 1990.

SECTION 5. 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. Definitions

Section 32220. For purposes of this chapter:
(a) "Fund" means the Alcohol Surtax Fund created by Section 32221.
(b) "Unit" means the appropriate measure of any of the following:
(1) Twelve ounces of beer.
(2) Five ounces of all wine, except those in subdivision (3).
(3) Three ounces of fortified wine.
(4) One ounce of distilled spirits.
(c) "Fortified wine" means any wine which (i) contains alcohol in an amount equal to or more than 14 percent by volume when bottled or packaged by the manufacturer, (ii) is not both sealed and capped by cork closure, and aged two or more years, (iii) does not contain 14 or more percent of alcohol by volume solely as a result of the natural fermentation process, and (iv) has been produced with the addition of wine spirits, brandy, or alcohol.
(d) "Other drugs" means all addictive or controlled substances other than alcoholic beverages, as defined by Section 23004 of the Business and Professions Code, and cigarettes and tobacco products, as defined in Section 30121 of the Revenue and Taxation Code, as both sections read on January 1, 1990.

Article 2. Alcohol Surtax Fund

Section 32221. The Alcohol Surtax Fund is hereby created in the State Treasury. The fund shall consist of all revenues raised pursuant to the taxes imposed by this chapter, and all interest and penalties imposed thereon pursuant to this part. Earnings derived from investment of moneys in the fund shall accrue to the fund. Notwithstanding Section 13340 of the Government Code, moneys in the fund shall be continuously appropriated, without regard to fiscal year, for the purposes of this chapter.
Section 32222. The fund consists of five separate accounts, as follows:
(a) The Prevention, Treatment and Recovery Account, funds from which shall only be expended for the following:
(1) Prevention of alcohol and other drug problems.
(2) Treatment and recovery services for alcohol and other drug problems.
(3) A coordinated statewide and local training, public policy and public awareness program to prevent alcohol and other drug problems, and to inform the public, particularly children and teenagers, of the potential health risks of alcohol and other drug use.
(4) Capital expenditures (including accessibility improvements for the disabled) for housing, treatment and recovery facilities, domestic violence shelters, and homeless and low-income facilities for persons recovering from alcohol- and other drug-related problems.
(b) The Emergency and Trauma Care Account, funds from which shall only be expended for the following:
(1) Emergency medical and trauma care treatment and all related services.
(2) Emergency medical and trauma care services, up to the time the patient is stabilized, provided by physicians in general acute care hospitals that provide basic or comprehensive emergency services.
(c) The Mental Health Account, funds from which shall only be expended for locally-implemented community mental health programs.
(d) The Infants, Children and Innocent Victims Account, funds from which shall only be expended for the following:
(1) Prevention, treatment, and care regarding the health needs of infants, children and women due to perinatal alcohol and other drug use.
(2) Prevention, treatment, and care regarding child abuse and child abuse victims.
(3) Shelter, support services, and prevention programs whose primary purpose is to serve battered women and their children.
(4) Training, education, public policy, research, and related support services for persons with disabilities.
(e) The Law Enforcement Account, funds from which shall only be expended for the following:
(1) Enforcement of laws prohibiting driving under the influence of an alcoholic beverage or any other drug, or the combined influence of an alcoholic beverage and any other drug, and related criminal justice and penal system costs and services.
(2) Enforcement of alcohol- and other drug-related laws, and related criminal justice and penal system costs and services.
(3) Recreation and park programs and projects that address alcohol and other drug impacts on public parks and facilities, including impacts on public safety, litter, vandalism, youth-at-risk, and other prevention and diversion activities.
(4) Operation and administration of a statewide emergency medical air-transportation network.
(5) Enforcement, education, and training relative to laws prohibiting driving under the influence of an alcoholic beverage or any other drug, or the combined influence of an alcoholic beverage and any other drug.

Article 3. Imposition of the Surtax on Beer, Wine and Distilled Spirits

Section 32225. A surtax at the rate of five cents ($0.05) per unit, and at a proportionate rate for any other quantity, is imposed upon every unit of beer and wine sold in this state or sold pursuant to Section 23384 of the Business and Professions Code, by a manufacturer, wine grower, or importer, or seller of beer or wine selling beer or wine with respect to which no tax has been paid within areas over which the United States Government exercises jurisdiction.
Section 32226. A surtax at the rate of five cents ($0.05) per unit, and at a proportionate rate for any other quantity, is imposed upon every unit of distilled spirits sold in this state or sold pursuant to Section 23384 of the Business and Professions Code, by a manufacturer, distilled spirits manufacturer's agent, brandy manufacturer, rectifier, and wholesaler, or seller of distilled spirits selling distilled spirits with respect to which no tax has been paid within areas over which the United States Government exercises jurisdiction.
Section 32227. Except with respect to beer and wine in the internal revenue bonded premises of a beer manufacturer or wine grower, and except with respect to those distilled spirits in possession or control of a distilled spirits taxpayer as defined by Section 23010 of the Business and Professions Code, upon which the taxes imposed by Section 32226 have not been paid, a floor stock tax of five cents ($0.05) is hereby imposed on every unit of beer, wine and distilled spirits in the possession or under the control of every person licensed under Division 9 (commencing with Section 23000) of the Business and Professions Code on or after 2:01 a.m. on January 1, 1991, pursuant to rules and regulations promulgated by the State Board of Equalization. This floor stock tax shall be due and payable on February 15, 1991.
Section 32228. The taxes imposed by this article shall be imposed in addition to any other tax imposed upon beer, wine or distilled spirits by this part, and shall be in addition to any other tax imposed upon beer, wine or distilled spirits by the voters at the November 6, 1990, election.
Section 32229. All the provisions of this part, with the exception of those contained in Chapter 10 (commencing with Section 32501), relating to excise taxes, are applicable also to the taxes imposed by this Article, to the extent that they are not inconsistent with this Article.

Article 4. Disposition of the Alcohol Surtax Fund

Section 32230. (a) With the exception of payments of refunds made pursuant to Chapter 8 (commencing with Section 32401), and, as determined by the Department of Finance, reimbursement of the State Board of Equalization for expenses incurred in the administration, enforcement, and collection of the taxes imposed by Article 3 (commencing with Section 32225), pursuant to its powers vested by this part, and reimbursement of the Controller for expenses incurred in the administration of the fund, all moneys in the fund shall be allocated as provided in subdivision (b).
(b) Moneys in the fund shall be allocated according to the following formula:
(1) Twenty-four percent shall be deposited in the Prevention, Treatment and Recovery Account, which is to be further allocated for the purposes specified in subdivision (a) of Section 32222 as follows:
(A) Four percent for the purposes of paragraph (1).
(B) Thirteen percent for the purposes of paragraph (2).
(C) Two percent for the purposes of paragraph (3).
(D) Five percent for the purposes of paragraph (4).
(2) Twenty-five percent shall be deposited in the Emergency and Trauma Care Account, which is to be further allocated for the purposes specified in subdivision (b) of Section 32222 as follows:
(A) Seventeen percent for the purposes of paragraph (1).
(B) Eight percent for the purposes of paragraph (2).
(3) Fifteen percent shall be deposited in the Mental Health Account, which is to be allocated for purposes specified in subdivision (c) of Section 32222.
(4) Fifteen percent shall be deposited in the Infants, Children and Innocent Victims Account, which is to be further allocated for the purposes specified in subdivision (d) of Section 32222 as follows:
(A) Six percent for the purposes of paragraph (1).
(B) Four percent for the purposes of paragraph (2).
(C) Three percent for the purposes of paragraph (3).
(D) Two percent for the purposes of paragraph (4).
(5) Twenty-one percent shall be deposited in the Law Enforcement Account, which is to be further allocated for the purposes specified in subdivision (e) of Section 32222 as follows:
(A) Two percent for the purposes of paragraph (1).
(B) Fourteen percent for the purposes of paragraph (2).
(C) Two percent for the purposes of paragraph (3).
(D) Two percent for the purposes of paragraph (4).
(E) One percent for the purposes of paragraph (5).
(c) Any amount allocated from any account specified in subdivision (b) which is not expended within one year shall revert to the account from which it was appropriated.
(d) The percentages stated in subdivision (b) are stated as a percentage of the moneys deposited in the fund and not as a percentage of the moneys deposited in each account.
Section 32231. (a) Moneys appropriated pursuant to Section 32221 and allocated pursuant to Section 32230 shall be allocated for expenditure for the purposes specified in Section 32222 as follows:
(1) For all the purposes specified in paragraphs (1), (2), and (4) of subdivision (a); subdivision (b); and paragraphs (1), (2), and (3) of subdivision (d) of Section 32222: collectively, to counties pursuant to the following formula:
(i) One hundred and fifty thousand dollars ($150,000) to each county annually.
(ii) The remaining funds apportioned based on each county's proportionate share of population.
(2) For purposes specified in paragraph (3) of subdivision (a) of Section 32222, to the Department of Health Services.
(3) For purposes specified in paragraph (4) of subdivision (d) of Section 32222, to the Department of Rehabilitation.
(4) For purposes specified in paragraphs (1) and (2) of subdivision (e) of Section 32222, 50 percent to counties based on each county's proportionate share of population and 50 percent to cities based on each city's proportionate share of the population.
(5) For purposes specified in paragraph (3) of subdivision (e) of Section 32222, to cities, counties and districts as defined in the Community Parklands Act of 1986 (Chapter 3.7 (commencing with Section 5700) of Division 5 of the Public Resources Code) pursuant to the distribution formula specified in Section 5720 of the Public Resources Code, except there shall not be the minimum allocations specified in subdivision (b) and paragraph (1) of subdivision (c) of that section.
(6) For purposes specified in paragraphs (4) and (5) of subdivision (e) of Section 32222, to the California Highway Patrol.

(b) Moneys allocated pursuant to subdivision (a) shall be disbursed as follows:

(1) Paragraph (1), monthly.

(2) Paragraphs (2), (3), (4), and (6), quarterly.

(3) Paragraph (5), annually on the first day of each fiscal year.

(c) Moneys allocated in subdivision (a) based on population shall be allocated based on the most recent Department of Finance population estimates.

Section 32232. (a) Funds allocated for the purposes specified in paragraphs (1), (2), and (4) of subdivision (a) of Section 32222 shall be expended by counties pursuant to each county's final approval of separate alcohol and other drug program plans prepared in accordance with the provisions of Section 11810.5 and paragraphs (1) to (4), inclusive, of subdivision (a) of Section 11810.6 of, and paragraphs (1) to (4), inclusive, of subdivision (a) of Section 11983.2 of the Health and Safety Code, and any other provisions as determined by each county. Each county's final approved plans shall be submitted to the Department of Alcohol and Drug Programs for information purposes only.

(b) Funds allocated for the purposes specified in paragraphs (1) and (2) of subdivision (a) of Section 32222 shall be expended 70 percent for purposes related to alcohol and 30 percent for purposes related to other drugs.

(c) Funds allocated for the purposes specified in paragraph (2) of subdivision (a) of, and subdivisions (b), (c) and (d) of Section 32222 shall only be expended for payment of services to persons who cannot afford to pay for the services, and for whom payment for the services will not be made through private coverage or by any program funded in whole or in part by the federal government.

(d) Of the funds allocated for the purposes specified in paragraph (3) of subdivision (a) of Section 32222, at least 50 percent shall be expended for a mass media program that both informs the public of the potential health risks of alcohol use and counteracts alcoholic beverage marketing messages.

(e) Funds allocated for the purposes specified in paragraph (1) of subdivision (b) of Section 32222 shall be expended by counties for the provision of emergency (as defined by Section 1797.70 of the Health and Safety Code) and trauma (as defined by Section 100240 of Title 22 of the California Code of Regulations) care and all related services pursuant to Sections 17000, 17001 and 17003 of the Welfare and Institutions Code.

(f) Funds allocated for the purposes specified in paragraph (2) of subdivision (b) of Section 32222 shall be disbursed by counties to physicians, as defined in Section 1797.98a of the Health and Safety Code as that section read on January 1, 1990, for emergency and trauma care services rendered, and shall be in addition to and shall not supplant levels of funding provided by Articles 3 (commencing with Section 16950) and 3.5 (commencing with Section 16951) of Chapter 5 of Part 4.7 of Division 9 of the Welfare and Institutions Code and the Emergency Medical Services Fund (Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code) for the 1989–90 fiscal year. Funds shall be disbursed at least quarterly on an equitable basis.

(g) Funds allocated for the purposes specified in subdivision (c) of Section 32222 shall be expended pursuant to mental health programs contained in Chapters 5 (commencing with Section 5450), 6 (commencing with Section 5475), and 6.8 (commencing with Section 5565.10) of Part 1, Part 2 (commencing with Section 5600), and Part 3 (commencing with Section 5800) of Division 5 of the Welfare and Institutions Code, as follows:

(1) Fifty percent for seriously mentally-ill adults.

(2) Thirty percent for emotionally-disturbed children and adolescents.

(3) Twenty percent for mentally-ill older adults.

The Department of Mental Health shall annually prepare recommendations to the Legislature on the expenditure of these funds upon review of local Short-Doyle plans or negotiated net amount contracts, as defined in Section 5705.2 of the Welfare and Institutions Code. These funds shall be used exclusively to reform and improve the support and treatment systems for the seriously mentally ill in all counties.

(h) Funds allocated for the purposes specified in paragraph (1) of subdivision (d) of Section 32222 shall be expended by counties pursuant to the authority specified in subdivisions (d) and (i) of Section 1276 of Title 17 of the California Code of Regulations.

(i) Funds allocated for the purposes specified in paragraph (2) of subdivision (d) of Section 32222 shall be expended by counties for programs described in Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(j) Funds allocated for the purposes specified in paragraph (3) of subdivision (d) of Section 32222 shall be expended by counties for programs described in The Domestic Violence Centers Act (Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code).

(k) Funds allocated for the purposes specified in paragraph (4) of subdivision (d) of Section 32222 shall be expended by independent living centers as defined in Section 19801 of the Welfare and Institutions Code.

(l) Funds allocated for the purposes specified in paragraph (2) of subdivision (e) of Section 32222 may be expended by counties and cities for Long Term Care Ombudsman services, as defined in Article 3 (commencing with Section 9720) of Chapter 9 of Division 8.5 of Part 1 of the Welfare and Institutions Code, in long term care facilities, as defined in subdivision (a) of Section 9701 Welfare and Institutions Code.

(m) Funds allocated for the purposes specified in paragraph (4) of subdivision (e) of Section 32222 shall be expended for an emergency medical air-transportation system crewed by personnel of the California Highway Patrol, as defined in subdivision (a) of Section 830.2 of the Penal Code.

Article 5. General Provisions

Section 32240. Expenditures pursuant to this chapter shall be used only for the purposes specified in this chapter, shall supplement 1989–90 state funding and per capita levels of service, and shall not replace existing state funding nor fund future state expenditures for increases in the cost of providing existing per capita levels of service. Existing state funding and per capita levels of service for purposes specified in this chapter shall not be reduced.

Section 32241. This chapter shall take effect on January 1, 1991.

Section 32242. This chapter shall be amended only by the four-fifths vote of the membership of both houses of the Legislature. All amendments to this chapter must be consistent with its purposes.

SECTION 6. If any section of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect.

Proposition 135: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends, repeals, and adds sections to the Food and Agricultural Code and the Health and Safety Code, and amends a section of the Labor Code, and adds sections to the Government Code, the Public Resources Code, the Vehicle Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This Act shall be known as the Consumer Pesticide Enforcement Act for Food, Water, and Worker Safety.

SECTION 2. Findings and Declarations

The people of California find and declare that:

(a) The people of California and the United States have a right to the purchase and consumption of safe food.

(b) People who work in the production of food have a right to a safe working environment.

(c) Recent events have heightened the public's awareness of food safety and led to a desire for additional regulatory practices to provide greater consumer and worker protection.

(d) Dietary risk exposure may be augmented by occupational exposure. To provide adequate safety to those who work in agriculture, we must supplement the dietary protection by a comprehensive workplace protection program.

(e) Pest management is vital to an adequate, safe and wholesome food supply.

(f) There is a need for a new and additional strict analysis of the pesticides used on food crops that present health concerns.

(g) There is a need to provide higher levels of protection to children and other sensitive subpopulations.

(h) There is a need for funding research to find alternatives to pesticides and develop safer pesticides and pest management practices.

(i) Given the risks of certain highly toxic pesticides to both workers and consumers, new regulations are required to make certain that persons dealing with these substances are properly trained in their use.

(j) Because exposure to pesticide residues could also come from consumption of water, as well as food, there is a need to review the water quality objectives for pesticide residue in drinking water sources and monitor the waters of the state to determine compliance with those water quality objectives.

(k) Nonpoint source discharges containing pesticide residues may affect the quality of waters of the state. Therefore, nonpoint source discharges should be subject to control and regulation through implementation of best management practices.

(l) There should be an updated review of the pesticide regulatory program of the Department of Food and Agriculture by the Secretary of the Resources Agency to determine if the present program provides the adequate protections required by state law.

(m) There is a need to establish an independent scientific advisory panel to assist in the monitoring and evaluation of pesticides and their impact on food safety.

(n) Transportation of food by tank truck is a matter of great concern to the producers and shippers of food and to the consumers. Appropriate safeguards should be taken to minimize the danger of contamination of food transported in tank trucks.

(o) Because the regulation of food, pesticides, agriculture and discharges of pesticide residues to sources of drinking water is a highly complex and technical area involving multiple state agencies, there is a need for a focused and exclusive assignment of coordination in that area so as to effectively coordinate with the environmental programs of agencies with responsibilities in those areas.

(p) Food safety and supply issues are complex and unique. They require the proper balance of public policy, health, economic, and scientific issues and are best addressed as a single subject rather than as part of a general toxic chemical or multi-faceted environmental measure.

SECTION 3. Statement of Purpose

The people enact the Consumer Pesticide Enforcement Act for Food, Water, and Worker Safety to make specific reforms to protect the supply of nutritious and wholesome food and the supply of water, and to reform occupational safety laws related to agriculture. To accomplish these reforms the people by this initiative measure create a new Division of Food Safety and Pesticide Regulation which shall double the number of samples taken to monitor pesticide residue, develop improved analytical methods to detect pesticide residues, prohibit the use of unsafe pesticides through a comprehensive review of priority pesticides involving an independent scientific advisory panel review, expand farm worker safety right-to-know and work place protection, conduct research to identify alternative means of pest management and develop alternative safer pesticides. This initiative measure is intended to provide comprehensive and necessary

reform on the specific subject of pesticide enforcement for food, water, and worker safety.

Accordingly, we, the People of the State of California, do hereby enact the Consumer Pesticide Enforcement Act for Food, Water, and Worker Safety.

SECTION 4.

Section 106 is added to the Food and Agricultural Code to read:

106. (a) A Division of Food Safety and Pesticide Regulation is created in the Department of Food and Agriculture.

(b) The division shall be headed by a deputy director. The deputy director shall be appointed by the Governor upon nomination by the director and serve at the pleasure of the director.

(c) One branch within the division shall be dedicated to the regulation of food safety and shall be called the Food Safety Branch. The authority of the branch may include produce monitoring, analytical test method review, dietary review and risk assessment, tolerance review and setting, and other related responsibilities as assigned by the director.

SECTION 5.

Section 11891 of the Food and Agricultural Code is amended to read:

11891. Every person who violates any provision of this division, or any regulation issued pursuant to a provision of the division, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ~~one hundred dollars ($100)~~ *five hundred dollars ($500)* nor more than ~~one thousand dollars ($1,000)~~ *two thousand five hundred dollars ($2,500)*, or by imprisonment of not less than 10 days nor more than six months, or by both fine and imprisonment. Each violation constitutes a separate offense.

SECTION 6.

Section 12501 of the Food and Agricultural Code is amended to read:

12501. ~~Unless the context otherwise requires, the~~ *The* definitions in this article *shall* govern the construction of this chapter *unless the context requires otherwise*.

SECTION 7.

Section 12502 of the Food and Agricultural Code is amended to read:

12502. "Food" means any article, *or component of any article,* ~~which is~~ used for food or drink for man or ~~any other~~ animal~~, or for a component of any such article~~.

SECTION 8.

Section 12503 of the Food and Agricultural Code is amended to read:

12503. "Pesticide chemical" means any ~~substance that is used in the production, storage, or transportation of produce which is an "economic poison"~~ *economic poison,* as defined in Section 12753, *used in the production, storage, or transportation of produce*.

SECTION 9.

Section 12504 of the Food and Agricultural Code is amended to read:

12504. "Produce" means ~~any~~ food in ~~its~~ *a* raw or natural state ~~which is~~ in ~~such~~ *a* form ~~as to indicate that it is~~ intended for consumer use with or without any or further processing.

SECTION 10.

Section 12505 of the Food and Agricultural Code is amended to read:

12505. "Pesticide residue" means *a residue of* any pesticide chemical ~~which is~~ added to produce.

SECTION 11.

Section 12535 of the Food and Agricultural Code is amended to read:

12535. (a) ~~Commencing in 1990, the~~ *The* department shall ~~substantially~~ expand and maintain its ~~focused~~ pesticide residue monitoring program ~~beyond the 1988 level~~. *The department shall monitor at least twice the number of samples of raw agricultural commodities sampled by the department in 1989.*

(b) The monitoring program under subdivision (a) shall include produce imported to California. The department shall design the expanded monitoring program so that the department increases the percentage of samples taken from imported produce above the percentage monitored in 1989. The focus on monitoring imported commodities is necessary because: (1) commodities produced outside of California are not supported by records of pesticide use which assist state agencies in providing meaningful monitoring and regulatory action and (2) such commodities may be grown with pesticides which are not registered in California or with pesticides applied under conditions not allowed in California.

(c) The ~~focused~~ monitoring program shall be prioritized ~~considering~~ *to consider* pesticides of greatest health concern and contribution to dietary exposure, and for various ~~sensitive~~ subpopulations~~,~~ *which may be uniquely sensitive to pesticide residues, with special emphasis on infants and* ~~including~~ children.

~~(b)~~ *(d)* The department shall consider, but not be limited to, ~~the following lists of~~ pesticides *on the following lists containing active ingredients which are registered for use on food or for which a tolerance exists* in establishing ~~priorities for~~ *its* monitoring *priorities*:

(1) Pesticides ~~identified~~ *classified* by the ~~federal~~ *United States* Environmental Protection Agency as *a* known, ~~possible~~ *probable*, or ~~probable~~ *possible* human ~~carcinogens which are registered for use on food crops~~ *carcinogen and published as final in the Federal Register*.

(2) Pesticides listed as high priority for risk assessment as a result of the evaluation process of ~~the Birth Defect Prevention Act of 1984~~ *Section 13127*.

(3) Pesticides listed as known to cause cancer or reproductive toxicity pursuant to Section ~~25249.9~~ *25249.8* of the Health and Safety Code.

~~(4) Class I and Class II pesticides on the United States Food and Drug Administration's Surveillance Index.~~

SECTION 12.

Section 12561 of the Food and Agricultural Code is amended to read:

12561. The director ~~by regulation~~ may establish permissible tolerances *by regulation* for any pesticide chemical in or on produce if ~~he or she finds each of the following: (a) The~~ *the* pesticide chemical is useful for the production and marketing of the produce~~. (b) The~~, *and, the* presence of the pesticide chemical as pesticide residue in quantities within the tolerances ~~so~~ established *pursuant to this section* is not deleterious to the health of man or ~~animals~~ *animal*.

SECTION 13.

Section 12561.3 of the Food and Agricultural Code is added to read:

12561.3. Food processed prior to the revision of any tolerance pursuant to this article shall be deemed not to be adulterated.

SECTION 14.

Section 12561.5 is added to the Food and Agricultural Code to read:

12561.5. After the director issues a proposed regulation revising a tolerance for a food use pesticide, the registrant, or any person on whose behalf a tolerance has been established, shall submit data to the director demonstrating appropriate amendments to maximum application rates, crop registrations, and preharvest intervals necessary to assure that the revised tolerance is not exceeded. The director shall issue, as part of the proposed regulation, a proposed timetable for the submission of data called for by this section.

SECTION 15.

Section 12562 of the Food and Agricultural Code is amended to read:

12562. ~~The director may exempt any~~ *Any* pesticide chemical *may be exempted* from the requirement of a tolerance if ~~he~~ *the director* finds that the pesticide chemical may *be used* safely ~~be used~~ without a tolerance.

SECTION 16.

Section 12563 of the Food and Agricultural Code is amended to read:

12563. ~~The director may establish the~~ *The* tolerance for any pesticide chemical *in or* on produce *may be established* at zero if ~~he~~ *the director* finds that a greater tolerance is not justified.

SECTION 17.

Section 12565 of the Food and Agricultural Code is amended to read:

12565. If a tolerance for a pesticide chemical in or on produce is established pursuant to any law *or regulation* of the United States, the director may review the tolerance~~, and if he~~. *After review, if the director* finds that ~~it~~ *the tolerance* is in accordance with the standards and provisions of this chapter, ~~he~~ *the director* may establish a like tolerance pursuant to this chapter.

SECTION 18.

Section 12582 of the Food and Agricultural Code is amended to read:

12582. ~~The~~ *Whenever a produce lot destined for processing is found to be in violation of this chapter, the* director shall immediately notify the ~~State~~ Director of Health Services by telephone *or facsimile machine*, ~~with~~ *followed by* immediate written confirmation~~, whenever a lot of produce destined for processing is found to be in violation of this chapter.~~ *of the notification.*

SECTION 19.

Section 12601 of the Food and Agricultural Code is amended to read:

12601. The director may seize and hold any lot of produce *or any unharvested produce* which carries or shows indication of pesticide residue or other added deleterious ingredients or which the director ~~suspects~~ *has reasonable grounds to suspect* of carrying the residue or deleterious ingredients.

SECTION 20.

Section 12604 of the Food and Agricultural Code is amended to read:

12604. Any ~~lot of~~ produce which is seized and held pursuant to this article, unless previously analyzed by the director, shall be sampled and analyzed within 24 hours after the seizure for the purpose of determining the amount of pesticide residue on it. The owner or bailee of the produce shall be immediately notified in person or by telegram by the director that the analysis of the sample shows that the lot of produce does or does not carry pesticide residue or other added deleterious ingredients in excess of the maximum quantity or permissible tolerance which is established pursuant to this chapter.

SECTION 21.

Section 12608.5 of the Food and Agricultural Code is amended to read:

12608.5. ~~Upon demand of the owner or person in rightful possession of the produce for permission to remove the produce destined for processing, the~~ *The* director shall release the *lot of* produce *seized and held* to the custody of the ~~State~~ Director of Health Services *upon demand of the owner or person in rightful possession of the produce destined for processing*.

SECTION 22.

Section 12671 of the Food and Agricultural Code is amended to read:

12671. It is unlawful for any person to pack, ship, or sell any produce that *contains or* carries *a* pesticide residue ~~in excess of~~ *which exceeds* the permissible tolerance ~~which is~~ established ~~by the director~~ pursuant to this chapter.

SECTION 23.

Section 12672 of the Food and Agricultural Code is amended to read:

12672. The director or commissioner may prohibit the harvest of any produce *or may seize and hold any lot of produce* when a preharvest interval specified in the registered labeling of a pesticide applied to the produce has not been complied with. Except as provided in Section 12673, such harvest prohibition shall not extend beyond the expiration of the preharvest interval. *Seized produce shall be held until the preharvest interval has expired and the director has satisfactory evidence that any pesticide residue is within a permissible tolerance.*

SECTION 24.

Section 12675 is added to the Food and Agricultural Code to read:

12675. Food imported into California containing a detectable pesticide residue shall be regarded as containing an unlawful residue if any of the following conditions exist: (1) the registration for the pesticide has been cancelled or suspended for use on that commodity in California; (2) the pesticide residue is in excess of a food residue tolerance; or (3) the registrant has applied for California registration for the pesticide and the department has determined that the pesticide does not meet the department's registration criteria.

SECTION 25.

Section 12797 of the Food and Agricultural Code is amended to read:

12797. (a) The director~~, on or before March 1, 1990, in consultation with~~ *and* the ~~State~~ Director of Health Services~~,~~ shall ~~also~~ *jointly* establish a ~~separate scientific advisory committee with an emphasis on persons with expertise in residue chemistry, analytical chemistry, or food technology from the department.~~

~~the State Department of Health Services, qualified public and private institutions of higher education, laboratories licensed pursuant to Section 26507 of the Health and Safety Code, consumer interest groups, and the agricultural chemical industry. The committee shall make recommendations on how the state can improve its existing pesticide residue analytical methods and review recent scientific advancements concerning new and revised analytical methods for testing produce and processed foods for the presence of pesticide residues. The ector may invite representatives of the federal Environmental Protection ncy and the United States Food and Drug Administration to participate in the committee's review.~~ *six-person Analytical Methods Scientific Advisory Committee.*

~~(b) The committee shall determine when newly emerging analytical methods are developed to the point that it is feasible to adopt their usage in the residue monitoring programs of the department or the State Department of Health Services.~~

~~(c) The committee shall focus its review on analytical methods for pesticide residues not detectable on the existing multiple/residue screens available for use by the department or the State Department of Health Services, and on pesticide residues which the committee deems are difficult to accurately identify and quantify due to time, equipment, or expense.~~

(b) In establishing the committee, each director shall appoint three members. Of the three appointees to be appointed by each director, no more than one appointee may be directly associated with a chemical company or firm.

(c) The members of the committee shall have expertise in residue chemistry, analytical chemistry, or food technology and be engaged directly or indirectly in analysis or research with respect to pesticide residues in food. At least one member of the Committee should have statistical expertise in evaluation of methods. The director may invite representatives of the United States Environmental Protection Agency and the United States Food and Drug Administration to participate in the Committee's review.

(d) The committee members shall serve for staggered two year terms. Two members shall be appointed for an initial one year term, two members shall be appointed for an initial two year term, and two members shall be appointed for an initial three year term.

(e) The committee will select its own chairperson from among its members. The chairperson may not be directly associated with a chemical company or firm.

(f) Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their official duties.

(g) The purpose of the committee will be to:

(1) review scientific advancements concerning new and revised analytical testing methods for testing produce and processed foods for the presence of pesticide residues;

(2) make recommendations to both departments as to how they may improve their existing pesticide residue analytical methods including, but not limited to, commendations as to equipment required to conduct the improved analytical thods;

(3) determine if or when implementation of new analytical methods by the state agencies are economically and technically feasible; and

(4) recommend to the directors when they believe the departments should adopt such new analytical methods.

(h) Nothing in this section shall limit the authority of the directors to implement and adopt new analytical methods prior to a determination or recommendation by the committee.

SECTION 26.

Section 12798 of the Food and Agricultural Code is amended to read:

12798. (a) *Five million dollars ($5,000,000) is appropriated each year for encumbrance from the State General Fund to the department. The provisions of Section 13340 of the Government Code shall not be applicable to this section.* The department shall make *the* funds available to qualified ~~public and private~~ entities *through research awards* to conduct pest management research projects, with an emphasis on ~~projects~~ *alternatives to pesticides, use of safer pesticides, farm management practices* that ~~will~~ result in the reduction of pesticide use, ~~the use of safer pesticides,~~ or *the* ~~minimizing~~ *minimization of* pesticide residue. *These research awards shall be made in consultation with the Director of Agricultural Research at the University of California and appropriate counterparts in the California State University system chosen by the director.* ~~(b)~~ Research conducted pursuant to this section shall have the further development of alternative pest management practices and methods as a priority.

(b) Prior to making research awards *pursuant to this section*, the department shall assess existing research activities and developments in integrated pest management, alternatives to pesticides, *sustainable agriculture,* and other alternative pest management practices and methods, including, but not limited to, cultural, biological ; and biotechnological research.

(c) (1) The director shall appoint a ~~pest management research screening committee~~ *Pest Management Research Screening Committee,* ~~of~~ not to exceed ~~nine persons, the membership of which may be rotated as determined by the director.~~ *eleven people.*

(2) The committee shall consist of ~~agriculturalists~~ *agriculturists*, including, *but not limited to,* organic farmers, *pest control advisors,* researchers, scientists, ~~academics,~~ *food processors,* representatives of ~~public interest organizations,~~ *health and consumer interest organizations, a representative of the director, a representative of the Director of the Health Services,* and ~~other persons~~ *others* who are knowledgeable, technically qualified, and experienced in pest management techniques, with an emphasis on ~~alternative methods, for which projects are being reviewed.~~ *the development of alternative pest control methods.* ~~The committee shall meet at the call of the director to review and give its advice and recommendations with respect to research projects funded by this section.~~

(3) Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with their official duties.

(4) The committee shall give advice and recommendations to the director with respect to which research projects should be funded by this section.

(5) The committee shall initially meet at the call of the director. The committee shall elect a chairperson at its first meeting and thereafter meet at the call of the chairperson or the director.

(6) The committee shall first focus on reviewing the priority pesticides as defined in Section 13063 so as to encourage research to meet the purposes set forth in this section.

(d) ~~In order to~~ *To* facilitate the utilization of ~~pest management~~ practices and methods developed pursuant to this section, the director shall cooperate with qualified ~~public and private~~ entities to provide outreach consultation, information dissemination, and ~~education~~ *educational* services to the agricultural community and other interested parties *including agricultural employers and their employees, as well as local county health officers*.

(e) This section shall remain in effect only until January 1, 1996, and, as of that date, is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SECTION 27.

Section 12798.1 is added to the Food and Agricultural Code to read:

12798.1. The director shall establish a program for the training of persons who apply for permits to use, or who mix, handle, use, or apply, restricted pesticides or other pesticides determined by the director to pose a hazard. In establishing such a program, and in developing the methods for delivery of the program, the director shall consult with the University of California Agricultural Extension Service. Such training shall include information regarding the necessity of pesticide use, the effective rate of application, timing of pesticide use, and information on alternative pest control methods. The training shall be designed to encourage a reduction in the use of restricted pesticides, the use of safer pesticides, minimize pesticide residue, and utilization of farm management practices which result in reduced pesticide use. This section shall not limit the director's authority under Section 12981.

SECTION 28.

Section 12798.2 is added to the Food and Agricultural Code to read:

12798.2. The director shall appoint a nine (9) member committee to research pesticide application technology. The committee shall be comprised of representatives from the department, Department of Health Services, University of California or California State University system, pest control operators, pest control advisors, growers, the public, and other knowledgeable and qualified persons. The committee shall conduct research to identify alternatives to improve existing pesticide application methods. The research shall be designed to make pesticide application more efficient by maximizing on-target applications which may allow the reduction of pesticide use. Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their official duties.

SECTION 29.

Section 12798.3 is added to the Food and Agricultural Code to read:

12798.3. The director, in cooperation with the University of California, shall conduct a study to evaluate pesticide use recommendations. The study shall take into consideration variations in pesticide use required by variations in pest populations, weather, geographic areas, and crops.

SECTION 30.

Section 12798.4 is added to the Food and Agricultural Code to read:

12798.4. Each person engaged for hire in the business of pest control shall have available a copy of both the written recommendation and the use permit which prescribes the restrictions and conditions of use covering each agricultural use application of a pesticide that requires a permit.

SECTION 31.

Section 12799 is added to the Food and Agricultural Code to read:

12799. (a) The Pest Management Research Screening Committee shall have as a priority the identification of research activities and developments in alternatives to pesticides, and other alternative pest management practices and methods that will lead to the elimination or reduction of the need for aerial spraying of pesticides designed to eradicate the Mediterranean fruit fly.

(b) Funds shall be appropriated from the General Fund to the department for the purpose of increasing the capacity of the department to obtain sterile Mediterranean fruit flies to a level which is twice the capacity that exists as of November 7, 1990.

SECTION 32.

Section 12799.1 of the Food and Agricultural Code is added to read:

12799.1. Section 12796 shall not apply to Sections 12797, 12798, 12798.1, 12798.2, 12798.3, 12798.4, 12799 or this section.

SECTION 33.

Section 12821.1 is added to the Food and Agricultural Code to read:

12821.1. (a) Each applicant for the registration of a pesticide product intended for use on a food crop shall provide the director with a practical analytical method for accurately determining residues of (1) each active ingredient, as defined in 7 U.S.C., Sec. 136(a), in the pesticide product and (2) each metabolite that may result from the active ingredient for which a tolerance has been established by the United States Environmental Protection Agency.

(b) For a food crop for which a residue tolerance has been established, the method shall allow the director to determine the residue on each crop within a continuous 24-hour period.

(c) Prior to January 1, 1993 each registrant of a toxicity category I pesticide, or any other pesticide deemed of significant toxicological concern by the director, registered with the department on January 1, 1991, shall provide the director with a method that would allow the director to determine the residue on each crop within a continuous 12-hour period unless the registrant can demonstrate that there is no method scientifically available to meet this subdivision.

(d) After January 1, 1991, all applicants for registration of a toxicity category I pesticide, or a pesticide classified as a toxicity category I pesticide, or any other pesticide deemed of significant toxicological concern by the director, shall

provide the director within two years of registration, classification, or being deemed of significant toxicological concern by the director, with a method that would allow the director to determine the residue on each crop within a continuous 12-hour period unless the registrant can demonstrate that there is no method scientifically available to meet this subdivision.

(e) If the registrant fails under subdivisions (c) or (d) to provide the required method or to demonstrate that there is no method scientifically available, the director shall not register that pesticide or, if already registered, shall suspend the registration of the pesticide.

SECTION 34.

Section 12830 is added to the Food and Agricultural Code to read:

12830. The director shall establish and implement a collection program under which, upon request of an agricultural pesticide user and without cost to the user, the department shall collect and safely dispose, or arrange for collection and safe disposal, of any pesticide which is no longer registered for use in California.

SECTION 35.

Section 12846 of the Food and Agricultural Code is repealed.

~~12846. The Food Safety Account is hereby created in the Department of Food and Agriculture Fund to be used, upon appropriation, for purposes of Sections 12535, 12797, 12798, 12979, 13060, and 13061 of this code and Section 26509 of the Health and Safety Code.~~

SECTION 36.

Section 12979 of the Food and Agricultural Code is amended to read:

12979. ~~A pesticide use report shall be submitted to the commissioner or director on a form and in a manner prescribed by the director. The data from the pesticide use reports shall be considered in setting priorities for food monitoring, pesticide use enforcement, farm worker safety programs, environmental monitoring, pest control research, public health monitoring and research, and similar activities by the department, or by the department in cooperation with other state, regional, or local agencies with appropriate authority.~~ *(a) A completed pesticide use report shall be submitted to the commissioner or director on a periodic and timely basis.*

(b) The reports shall be made on a form prescribed by the director.

(c) Each commissioner shall submit the pesticide use reports received to the department on a periodic and timely basis as prescribed by the director.

(d) Data from the reports will be used for:

(1) Prioritizing monitoring programs.

(2) Pesticide use enforcement.

(3) Worker safety programs.

(4) Environmental monitoring including, but not limited to, pesticide contamination of surface or groundwater, impact on endangered species, off-target application and other adverse environmental impact.

(5) Pest control research.

(6) Public health monitoring and research.

(7) Similar activities by the department.

(e) (1) Persons required to submit completed pesticide use reports shall retain them for at least two years after the date the forms are to be submitted pursuant to subdivision (a).

(2) The director shall retain the reports for a period of time sufficient to evaluate the chronic health effects, if any, associated with pesticide use.

(f) The department shall make the reports available upon request to the Department of Health Services.

(g) The department and the commissioners shall make the reports available upon request to produce handlers, retailers, or the public.

SECTION 37.

Section 12980 of the Food and Agricultural Code is amended to read:

12980. The Legislature hereby finds and declares that it is ~~necessary and desirable~~ *imperative* to provide for the safe use of pesticides and for safe working conditions for farmworkers, pest control applicators, and other persons handling, storing, or applying pesticides, or working in and about pesticide-treated areas.

The Legislature further finds and declares that the development of regulations relating to pesticides and worker safety should be the joint and mutual responsibility of the Department of Food and Agriculture and the ~~State~~ Department of Health Services.

The Legislature further finds and declares that in carrying out the provisions of this article, the University of California, the Department of Industrial Relations, and any other similar institution or agency should be consulted.

It is the intent of the people of the State of California in amending this article to protect the health and safety of agricultural employees that are exposed to pesticides.

SECTION 38.

Section 12980.1 of the Food and Agricultural Code is added, to read:

12980.1. (a) The department's agricultural employee protection program shall be designed to protect the health and safety of agricultural employees that are exposed to pesticides.

(b) The director shall review and revise existing worker safety regulations in a manner consistent with the provisions of this article.

SECTION 39.

Section 12981 of the Food and Agricultural Code is amended to read:

12981. The director shall adopt regulations to carry out ~~the provisions of~~ this article. ~~Such~~ *These* regulations shall include, but are not limited to, all of the following subjects:

(a) Restricting worker reentry into areas treated with pesticides determined by the director to be hazardous to worker safety by using either or both of the following:

(1) Time limits.

(2) Pesticide residue levels on treated plant parts determined by scientific analysis to not be a significant factor in cholinesterase depression or other health effects.

When the director has adopted regulations pursuant to both paragraphs (1) and (2), the person in control of the area treated with the pesticide shall have the option of following regulations adopted pursuant to either paragraph (1) or (2). If the person in control of the area treated with the pesticide chooses to follow regulations adopted pursuant to paragraph (2), the director may establish and charge the person a fee necessary to cover any costs of analysis or costs incurred by the director or commissioner in carrying out regulations adopted pursuant to paragraph (2). The regulations shall include a procedure for the collection of the fee, and the fee shall not exceed actual cost.

(b) Handling of pesticides.

(c) Hand washing facilities.

(d) Farm storage and commercial warehousing of pesticides.

(e) Protective devices, including, but not limited to, respirators and eyeglasses.

(f) Posting, in English and Spanish, of fields, areas, adjacent areas or fields, or storage areas.

(g) Implementation of hazardous substances information and training in a manner that shall provide agricultural workers rights as least as effective as, and consistent with, the federal Hazard Communications Standard (29 CFR 1910.1200), notwithstanding any other provision of law.

The ~~State~~ Department of Health Services shall participate in the development of any regulations adopted pursuant to this article. ~~Such~~ *Those* regulations that relate to health effects shall be based upon the recommendations of the ~~State~~ Department of Health Services. The original written recommendations of the ~~State~~ Department of Health Services, any subsequent revisions of those recommendations, and the supporting evidence and data upon which the recommendations were based shall be made available upon request to any person.

SECTION 40.

Section 12981.1 is added to the Food and Agricultural Code to read:

12981.1. The director shall, by regulation, establish a program for the training of all persons who handle, mix, or apply toxicity category I pesticides or other pesticides deemed by the director to pose a hazard or potential hazard to worker safety, public health or the environment. The training of such persons shall be designed to assure the safe use and handling of pesticides. This section shall not limit the director's authority under Section 12981.

SECTION 41.

Section 12981.2 is added to the Food and Agricultural Code to read:

12981.2. (a) The director shall, by regulation, determine which crops are labor intensive crops and develop for these crops, in consultation with the Department of Industrial Relations, the University of California and the Department of Health Services, crop sheets with information on each of the restricted materials or toxicity category I pesticides typically used on a crop, the specific acute and chronic effects of exposure to those pesticides, time of year and use, and any other information the director determines to be appropriate. The crop sheets shall be printed in English and Spanish, and may be printed in other languages commonly used by agricultural workers who work with a particular crop.

(b) The crop sheets shall be distributed to employers and to clinics, hospitals and other health care providers that serve agricultural workers.

(c) The crop sheets shall be developed and distributed no later than one year from the effective date of this Act.

SECTION 42.

Section 12981.3 is added to the Food and Agricultural Code to read as follows:

12981.3. After January 1, 1992, at the time a pesticide is registered or reregistered, the Director shall establish, by regulation, reentry intervals following pesticide application for toxicity category I, II, III and priority pesticides as defined in Section 13063 based on data and information received from all sources including the registrant.

SECTION 43.

Section 12982 of the Food and Agricultural Code is amended to read:

12982. *This article, and the regulations adopted pursuant to this article, shall be enforced by the director and, under the direction and supervision of the director, the agricultural commissioner of each county.* The director and the *agricultural* commissioner ~~of each county under the direction and supervision of the director, shall enforce the provisions of this article and the regulations adopted pursuant to it. The local health officer may assist the director and the commissioner in the enforcement of the provisions of this article and any regulations adopted pursuant to it.~~ *may be assisted in carrying out their responsibilities under this section by the local health officer.* The local health officer shall investigate *and shall take necessary action in cooperation with the agricultural commissioner to abate* any condition where a health hazard ~~from pesticide use~~ exists~~, and shall take necessary action, in cooperation with the commissioner, to abate any such condition.~~ *from pesticide use.* The local health officer may call upon the ~~State~~ Department of Health Services for assistance pursuant to ~~the provisions of~~ Section 2951 of the Health and Safety Code.

SECTION 44.

Section 12985 of the Food and Agricultural Code is amended to read:

12985. Any person who orders an employee to enter an area posted with a warning sign in violation of any worker safety reentry ~~requirements promulgated~~ *regulation adopted* pursuant to this article ~~by the director~~ is guilty of a misdemeanor. A violation of this article affecting any worker or workers constitutes a separate offense for each affected worker.

SECTION 45.

Section 12986 of the Food and Agricultural Code is amended to read:

12986. (a) The director shall *review and* approve programs for training persons who handle or apply pesticides in aerial pest control operations. The training programs shall be consistent with, but not limited to, this article and may include participation ~~by trainees~~ in field practices or exercises dealing with the safe handling and application of pesticides and may include performance measurement of the practices and exercises.

(b) The ~~approved~~ training programs *referred to in subdivision (a)* shall be conducted by industry qualified instructors. Industry qualified instructors are persons approved by the director.

(c) All persons who successfully complete an approved training program shall

be issued a certificate of completion by industry qualified instructors, which shall be available for inspection by the director or a commissioner, or ~~his or her~~ *their* representative. When the person completing an approved training program attended the program at the request or expense of the person's employer, the employer shall be provided a copy of the certificate of completion, which also shall be available for inspection by the director or a commissioner, or ~~his or her~~ *their* representative.

SECTION 46.

Section 12987 is added to the Food and Agricultural Code to read:

12987. The director shall require registrants of pesticides to submit all data necessary to perform the director's duties under this article.

SECTION 47.

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 its registrant has complied with this article.

SECTION 48.

Section 12996 of the Food and Agricultural Code is amended to read:

12996. (a) Every person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, is guilty of a misdemeanor and upon conviction shall be punished by a fine ~~of~~ not less than five hundred ~~dollars~~ ($500) nor more than five thousand dollars ($5,000), or by imprisonment of not more than six months, or by both fine and imprisonment. Upon a second or subsequent conviction of the same provision of this division relating to pesticides, a person shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment of not more than six months or by both fine and imprisonment. Each violation constitutes a separate offense.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the offense involves an intentional or negligent violation which created or reasonably could have created a hazard to human health or the environment, the convicted person shall be punished by imprisonment ~~in the county jail~~ not exceeding one year ~~or in the state prison~~ or by fine of not less than ~~five~~ *ten* thousand dollars ~~($5,000)~~ *($10,000)* nor more than fifty thousand dollars ($50,000), or by both the fine and imprisonment.

SECTION 49.

Section 12998 of the Food and Agricultural Code is amended to read:

12998. Any person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, shall be liable civilly in an amount not exceeding ~~ten~~ *fifteen* thousand dollars ~~($10,000)~~ *($15,000)* for each violation. Any person who commits a second or subsequent violation that is the same as a prior violation or similar to a prior violation or whose intentional violation resulted or reasonably could have resulted in the creation of a hazard to human health or the environment or in the disruption of the market of the crop or commodity involved, shall be liable civilly in an amount not to exceed twenty-five thousand dollars ($25,000). Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering the provisions of this division, and Division 6 (commencing with Section 11401).

SECTION 50.

Section 13000 of the Food and Agricultural Code is amended to read:

13000. ~~An~~ *Any* action brought pursuant to this article shall be commenced by the ~~director, the commissioner, the~~ Attorney General, the district attorney, the city prosecutor, ~~or~~ the city attorney, ~~as the case may be,~~ *the director, or the commissioner, as is appropriate,* within two years of the occurrence of the violation. However, when an investigation is completed and submitted to the director, the action shall be commenced within one year of that submission.

SECTION 51.

Section 13060 of the Food and Agricultural Code is amended to read:

13060. (a) ~~Commencing July 1, 1990, the~~ *The* department, in cooperation with the ~~State~~ Department of Health Services, shall conduct an assessment of *the* dietary risks associated with the consumption of produce and processed foods treated with pesticides. ~~This~~ *The* assessment *specified in this section* shall integrate ~~adequate~~ *any relevant* data on acute *toxicological* effects, *if any,* and the mandatory health effects studies specified in subdivision (c) of Section 13123, appropriate dietary consumption estimates, and relevant residue data based on the department's and the ~~State~~ Department of Health Services' monitoring data and appropriate field experimental and food technology information, to quantify consumer risk. *In conducting the assessment, the department shall consider* ~~Differences~~ *differences* in age, sex, ethnic, and regional consumption patterns ~~shall be considered~~. *In order to assure the adequacy of public health protection,* ~~The~~ *the* department shall submit each risk assessment *and supporting documentation* to the ~~State~~ Department of Health Services~~, with necessary supporting documentation,~~ for peer review~~, which shall consider the adequacy of public health protection~~. The ~~State~~ Department of Health Services may provide comments to the department. The department shall formally respond to all of the comments made by the ~~State~~ Department of Health Services. The department shall modify the risk assessment to incorporate the comments as deemed appropriate by the director. All correspondence between the department and the ~~State~~ Department of Health Services in this matter shall be made available to any person, upon request, pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) The department shall consider those pesticides designated for priority food monitoring pursuant to Section 12535 and the results of the department's or the ~~State~~ Department of Health Services' monitoring in establishing priorities for the dietary risk assessments.

(c) (1) If the department lacks adequate data on the acute effects of pesticide active ingredients or mandatory health effects studies specified in subdivision (c) of Section 13123 necessary to accurately estimate dietary risk, the department shall require the appropriate data to be submitted by the registrant of products whose labels include food uses. This subdivision shall not be construed to affect the time frames established pursuant to Section 13127.

(2) No applicant for registration, or current registrant, of a pesticide who proposes to purchase or purchases a registered pesticide from another producer in order to formulate the purchased pesticide into an end use product shall be required to submit or cite data pursuant to this section or offer to pay reasonable compensation for the use of any such data if the producer is engaged in fulfilling the data requirements of this section.

(d) (1) If ~~a~~ *the* registrant fails to submit the data requested by the director pursuant to this section within the time specified by the director, the director shall issue a notice of intent to suspend the registration of that pesticide. The director may include in the notice of intent to suspend any provisions that are deemed appropriate concerning the continued sale and use of existing stocks of that pesticide. Any proposed suspension shall become final and effective 30 days from the receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the director that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The only matter for resolution at the hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required and whether the director's determination with respect to the disposition of existing stocks is consistent with this subdivision.

(2) A hearing shall be held and a determination made within 75 days after receipt of a request for ~~a~~ hearing. The decision rendered after completion of the hearing shall be final. Any registration suspended shall be reinstated by the director if the director determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

(e) If the department finds that any pesticide use represents a dietary risk that is deleterious to the health of humans, the department shall prohibit or take action to modify that use or modify the tolerance pursuant to Section 12561, ~~or both,~~ *or cancel the tolerance,* as necessary to protect the public *health*.

SECTION 52.

Section 13061 of the Food and Agricultural Code is amended to read:

13061. *(a)* The department and the ~~State~~ Department of Health Services shall jointly review the existing federal and state pesticide registration and food safety system and determine if the existing programs adequately protect infants and children ~~from dietary exposure to pesticide residues. The review shall commence as early as possible in 1990, so that any policy or administrative adjustments determined to be necessary as a result of the joint review can be made on a timely basis~~. The department shall consult with the University of California and other qualified public and private entities *with scientific expertise* in conducting the joint review. ~~The joint review shall continue for a sufficient time in order to evaluate the report of infant exposure to pesticide residues, which is presently being undertaken by the National Academy of Sciences. Within six months of the official release of the National Academy of Sciences' study, the department shall finalize a report describing the evaluation that was conducted pursuant to this section, including any recommendations for modification of the existing regulatory system in order to adequately protect infants and children. A copy of this report shall be submitted to the Governor and the Legislature.~~ *The entities consulted should include representatives of the medical community and other health-based organizations, with special emphasis on those that focus on the health of infants and children.*

(b) The joint review shall consider all scientific reports which are, or become, available and which analyze the federal or state food safety program particularly in regard to children. By July 1, 1992, the departments shall jointly finalize a public report describing the evaluation and including recommendations, if necessary, for modification of the existing regulatory system to ensure the health and safety of infants and children. Copies of the report shall be submitted to the Governor and the Legislature and be made available to the public.

(c) Not later than January 1, 1991, the director, shall commence a statewide survey of food consumption among children. The survey shall take into account variations in consumption based on age, ethnic origin, socioeconomics, and geographic location. In preparing the survey, the director shall review the dietary intake data available from nationwide studies conducted by the United States Department of Agriculture and other applicable agencies, and shall identify supplemental information needed to characterize the nature of children's diet in the state.

SECTION 53.

Section 13062 is added to the Food and Agricultural Code to read:

13062. (a) For purposes of this section, the term "inert ingredients" means an ingredient in a pesticide which is not an "active ingredient" as defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C., Sec. 136(a)).

(b) The director may require any registrant that has registered a pesticide which contains an inert ingredient which has been listed by the United States Environmental Protection Agency as an Inert of Toxicological Concern (List 1), or any other inert ingredient which has been deemed by the director to be of significant toxicological concern, to submit appropriate and relevant acute toxicity, chronic toxicity, and residue data to the department for the inert ingredient in question.

(c) The director may set maximum time periods for the submission of data required pursuant to this section. Those time periods shall not exceed those set by the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or five years from the date the data is called to be submitted for review pursuant to this section, whichever is less.

(d) The director, in cooperation with the Department of Health Services, shall conduct an assessment of the risks associated with the consumption of raw agricultural commodities and processed foods that may contain residues of inert ingredients referenced in subdivision (b). The assessment shall integrate an

evaluation of data on acute and chronic health effects, dietary consumption estimates, and relevant residue data.

(e) If the director finds that any use of the pesticide containing an inert ingredient is deleterious to health because of the presence of the inert ingredient, the director shall take action to modify the pesticide registration or use as necessary to protect the health and safety of consumers including, but not limited to, suspension or cancellation of the registration of any pesticide containing the inert ingredient, as well as modification or cancellation of any established tolerances for pesticide formulations containing the inert ingredient.

(f) The director may require any registrant that has registered a pesticide which contains an inert ingredient specified in subdivision (b) to provide a practical analytical method for accurately determining its residues. The method shall allow the director to determine the residue on each crop within a continuous 24-hour period.

(g) Where there are multiple registrants of a pesticide containing an inert ingredient or where multiple pesticides use the same inert ingredient, the director shall facilitate the formation and coordination of a task force to provide the data required pursuant to this section.

SECTION 54.

Section 13063 is added to the Food and Agricultural Code to read:

13063. (a) There shall be a comprehensive review of priority pesticides. For purposes of this section, the term "priority pesticide" is defined as any pesticide active ingredient for which a food residue tolerance has been established by the federal government or the department and which has been: (1) listed by the United States Environmental Protection Agency as a known or probable human carcinogen and published as final in the Federal Register; or (2) listed pursuant to Section 25249.8 of the Health and Safety Code as a chemical known to the state to cause cancer or reproductive toxicity.

(b) The director shall develop, in consultation with the Director of the Department of Health Services, a process for the review of priority pesticides.

(c) The Governor shall appoint a Scientific Advisory Review Panel for Priority Pesticides consisting of five experts with scientific expertise in pesticide residue impacts on human health. The panel will serve as an independent scientific advisory panel to the director as the review of priority pesticides is being conducted. The panel shall conduct its initial meeting on or before July 1, 1991. Members of the panel shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their official duties.

(d) For each priority pesticide, the panel shall review the relevant toxicity, exposure, and pesticide use data and determine if the pesticide use represents a "negligible adverse health effect risk" as defined in this section. The panel may also recommend to the director what action the panel believes should be taken to achieve the "negligible adverse health effect risk" level for the pesticide in question. The panel shall submit the results of its determination, and any recommendations, in writing to the director, the Director of Health Services, and the Governor. The panel shall also make those results and determinations available to the public.

(e) After review of the determinations and recommendations of the panel, the director shall make public in a written report the actions which the director determines should be taken relative to the priority pesticide in question.

(f) Actions which may be recommended or taken for purposes of subdivisions (d) and (e) include, but are not limited to, modifications to use, adjustments to pre-harvest intervals, modification, suspension, or cancellation of registration for particular food crops, or modification or cancellation of tolerances.

(g) Section 13060(c) and (d) shall be applicable to this section.

(h) The Governor may reorganize the governmental structure of the State to facilitate this review process pursuant to Section 12080.2 of the Government Code.

(i) The evaluation of priority pesticides shall include consideration of the following factors: (1) the nature of toxic effects caused by exposure to the pesticide; (2) the validity, completeness, and reliability of the data regarding the pesticide; (3) the necessity of the pesticide for the production of an adequate and wholesome food supply; and (4) any health related benefits related to the use of the pesticide.

(j) The reviews undertaken pursuant to this section shall be implemented so as to not exceed a negligible adverse health effect risk.

(k) For the known and probable human carcinogens and chemicals known to the state to cause cancer referenced in subdivision (a), the term "negligible adverse health effect risk" is defined as the level of dietary exposure to the pesticide residue below a level which would present a significant increased cancer risk, calculated using generally accepted scientific methods.

(l) For chemicals known to the state to cause reproductive toxicity, the term "negligible adverse health effect risk" is defined as the level at which the pesticide residue will not cause known adverse human reproductive health effects, including an appropriate margin of safety designated by the panel in accordance with generally accepted scientific methods.

(m) When either (1) the department recommends to the Health and Welfare Agency that a priority pesticide be considered for potential listing pursuant to Section 25249.8 of the Health and Safety Code or (2) the Health and Welfare Agency, Department of Health Services or the Safe Drinking Water and Toxic Enforcement Act Scientific Advisory Panel undertakes a review or risk assessment for a priority pesticide, the director shall submit to those entities a report on the relevant assessments, if any, conducted under Section 13063 and any relevant recommendations of the Scientific Advisory Review Panel for Priority Pesticides.

SECTION 55.

Section 13150.1 is added to the Food and Agricultural Code to read:

13150.1. The director may allow the continued registration, sale, and use of an economic poison which meets any one of the conditions specified in Section 13149, only if the director consults with the Director of Health Services and the chair of the State Water Resources Control Board prior to issuing a decision pursuant to Section 13150(c) and (d) regarding findings of the subcommittee.

SECTION 56.

Section 55861.7 of the Food and Agricultural Code is repealed.

~~55861.7. Notwithstanding Section 55861.5, in addition to the fee paid pursuant to Section 55861, each licensee shall pay a 50 percent surcharge to the director, in a form and manner prescribed by the director. This section shall not apply to those licensees the department determines should not be assessed due to the limited applicability of Sections 12535, 12797, 12798, 13060, and 13061 of this code or Section 26505.5 of the Health and Safety Code to those licenses, or because substantial economic hardship would result to individual licensees. Revenue received pursuant to this section shall be deposited in the Food Safety Account in the Department of Food and Agriculture Fund. A penalty of 10 percent per month shall be added to any surcharge not paid when due.~~

SECTION 57.

Section 56571.7 of the Food and Agricultural Code is repealed.

~~56571.7. Notwithstanding Section 56571.5, in addition to the fee paid pursuant to Section 56571, each licensee shall pay a 50 percent surcharge to the director, in a form and manner prescribed by the director. This section shall not apply to those licensees the department determines should not be assessed due to the limited applicability of Sections 12535, 12797, 12798, 13060, and 13061 of this code or Section 26505.5 of the Health and Safety Code to those licenses, or because substantial economic hardship would result to individual licensees. Revenue received pursuant to this section shall be deposited in the Food Safety Account in the Department of Food and Agriculture Fund. A penalty of 10 percent per month shall be added to any surcharge not paid when due.~~

SECTION 58.

Section 12261 is added to the Government Code to read:

12261. (a) In order to respond to the need for a focused and exclusive effort to coordinate the implementation and enforcement of state laws related to the highly complex and technical regulation of food, pesticides, agriculture, and discharges of pesticide residues to sources of drinking water, the Secretary of Environmental Affairs shall also serve as the Environmental Advocate for Food, Water, and Worker Safety, and shall have primary and exclusive responsibility for the following actions:

(1) coordinating with state agencies regarding their responsibilities in implementing and enforcing the environmental laws of the state which relate to food, pesticides, agriculture, or discharges of pesticide residues to sources of drinking water;

(2) submitting recommendations to the Department of Food and Agriculture relative to implementing Section 14102 of the Food and Agricultural Code pertaining to the regulation of environmentally harmful materials; and

(3) coordinating with the Department of Food and Agriculture in implementing Section12798 of the Food and Agricultural Code pertaining to pesticide use reduction research.

(b) The Secretary of Enviromental Affairs in the capacity of Environmental Advocate for Food, Water, and Worker Safety may review the enforcement of state laws related to food, pesticides, agriculture, and discharges of pesticide residues to sources of drinking water to determine whether legal enforcement action is appropriate. If the Secretary determines that legal enforcement action is appropriate and is not being pursued by the appropriate state, regional, or local agency, he or she shall bring the matter to the attention of the appropriate agency with jurisdiction. The agency shall respond to the Secretary within 60 days and provide a status report on the investigative or enforcement action which is underway, if any. If, after reviewing the agency status report, the Secretary believes that the agency's action is not sufficient, he or she may bring the matter to the Attorney General for his or her action.

(c) The provisions of this subdivision shall become operative only if an Office of Environmental Advocate is created by the passage of an initiative measure in the General Election of 1990 and the provisions regarding that office are implemented.

(1) To ensure an effective coordination effort by the Secretary of Enviromental Affairs, in the capacity of Environmental Advocate for Food, Water, and Worker Safety, in the operation of state programs and enforcement of state laws related to food, pesticides, agriculture, and discharges of pesticide residues to sources of drinking water, the Office of the Environmental Advocate shall have no authority relative to those areas of state law. Additionally, the Office of the Enviromental Advocate shall not:

(i) interfere with or affect the responsibilities or actions of the Director of the Department of Food and Agriculture pursuant to the Food and Agricultural Code or the status of the Department of Food and Agriculture as the lead agency with respect to the regulation of food, pesticides, and agriculture;

(ii) affect the responsibilities of agencies and departments which are directed to work jointly with, or to be consulted by, the Department of Food and Agriculture in the implementation of the Food and Agricultural Code;

(iii) interfere with or affect the responsibilities and actions of the Director of Health Services pursuant to the Health and Safety Code in respect to the regulation of food and pesticides;

(iv) interfere with or affect the responsibilities of the State Water Resources Control Board or the Regional Water Quality Control Boards in respect to discharges of pesticide residues to sources of drinking water; or

(v) affect implementation of Section 21080.5 and 21080.6 of the Public Resources Code concerning the certification of regulatory programs by the Secretary of the Resources Agency relative to programs which pertain to food, pesticides, agriculture, or discharges of pesticide residues to sources of drinking water.

(2) The Secretary of Environmental Affairs in the capacity of Environmental Advocate for Food, Water, and Worker Safety, or his or her designee, shall serve as a member of the Council on Environmental Quality.

SECTION 59.

Section 26001.1 is added to the Health and Safety Code to read:

26001.1. "Active ingredient" shall have the same meaning as "active ingredient" in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136(a)).

SECTION 60.
Section 26015.1 is added to the Health and Safety Code to read:
26015.1. "Inert ingredient" means an ingredient that is not an active ingredient.
SECTION 61.
Section 26025 of the Health and Safety Code is amended to read:
26025. ~~"Pesticide chemical"~~ *"Pesticide" or "pesticide chemical"* means any substance which alone, in chemical combination, or in formulation with one or more substances, is an "economic poison" within the meaning of Section 12753 of the Food and Agricultural Code of this state or *a "pesticide" as defined in* the Federal Insecticide, Fungicide, and Rodenticide Act ~~(61 Stat. 163; 7 U.S.C. Sec. 135 et seq.),~~ *(7 U.S.C., Sec. 136(u)), including the "active ingredient" as defined in Section 26001.1 or "inert ingredient" as defined in Section 26015.1,* and which is used in ~~the~~ production, storage, or transportation of any raw agricultural commodity.
SECTION 62.
Section 26205 of the Health and Safety Code is amended to read:
26205. (a) All pesticide regulations and any amendments to ~~these~~ *those* regulations adopted pursuant to the federal act, *as defined in Section 26011,* or the Food and Agricultural Code, which are in effect on November 23, 1970, or which are adopted on or after ~~this date,~~ *November 23, 1970,* are the pesticide regulations in this state. The department may, by regulation, prescribe tolerances for pesticides in processed foods in this state whether or not these tolerances are in accordance with the regulations adopted pursuant to the federal act or the Food and Agricultural Code.
(b) Except as otherwise provided in this subdivision, the department shall evaluate the tolerance prescribed, or an exemption from a tolerance granted, for a pesticide in processed foods and make a determination whether or not the existing tolerance, or the exemption from a tolerance, is protective of the public health whenever any one of the following occurs:
(1) The Director of Food and Agriculture designates the pesticide as a restricted material pursuant to subdivisions (a) and (b) of Section 14004.5 of the Food and Agricultural Code.
(2) The Director of Food and Agriculture refuses to register or cancels the registration of the pesticide pursuant to Section 12825 *of the Food and Agricultural Code*, or suspends the registration of the pesticide pursuant to Section 12826 ; of the Food and Agricultural Code, upon determining that the pesticide is detrimental to the public health and safety.
(3) The Director of Food and Agriculture adopts regulations restricting worker entry into areas treated with the pesticide pursuant to Section 12981 of the Food and Agricultural Code.
(4) The pesticide is the subject of a proceeding pursuant to a determination by the *United States* Environmental Protection Agency under paragraph (3) (i) (A), (3) (ii) (A), (3) (ii) (B), or (3) (iii) of subsection (a) of Section 162.11 of Title 40 of the Code of Federal Regulations.
The requirement to evaluate a tolerance prescribed, or an exemption from a tolerance granted, for a pesticide does not apply if the department finds that any of the actions described in paragraphs (1) to (4), inclusive, occurred for reasons that are not related to the question whether or not the existing tolerance, or the exemption from a tolerance, adequately protects the public health. If the department makes such a finding, the reasons for the finding shall be stated in writing.
(c) The determination required by subdivision (b), and the reasons for the determination, shall be stated in writing. If the determination is required because any of the actions described in paragraphs (1) to (4), inclusive, of subdivision (b) occurs after January 1, 1985, the determination shall be completed within one year of the date of the action. If the determination is required because any of those actions occurred prior to January 1, 1985, the determination shall be completed by January 1, 1990.
(d) In any case where the department, after consultation with the Department of Food and Agriculture, determines, pursuant to subdivision (b), that the tolerance prescribed, or an exemption from a tolerance granted, for a pesticide is not protective of the public health, the department shall, if it does not act immediately pursuant to subdivision (a), transmit notice of its determination to the responsible federal agencies and shall request that they take action, pursuant to the federal act, to modify the tolerance or an exemption from a tolerance. If, after one year from the date the notice is transmitted, the department finds that the responsible federal agencies have failed to take appropriate action to protect the public health, the department shall exercise its authority pursuant to subdivision (a) to prescribe a tolerance that is protective of the public health and shall notify the responsible federal agencies of its action.
SECTION 63.
Section 26206 of the Health and Safety Code is amended to read:
26206. All food additive regulations and any amendments to ~~such~~ *those* regulations adopted pursuant to the federal act, *as defined in Section 26011,* which are in effect on November 23, 1970, or which are adopted on or after ~~such date,~~ *November 23, 1970,* are the food additive regulations of this state. The department may ~~; by regulation,~~ prescribe *by regulation* conditions under which a food additive may be used in this state whether or not such conditions are in accordance with the regulations adopted pursuant to the federal act.
SECTION 64.
Section 26505.6 is added to the Health and Safety Code to read:
26505.6. (a) The department shall expand and maintain its annual program to monitor processed foods for pesticide residues, chemicals, microbes, and other contaminants of health concern. The department shall monitor at least twice the number of samples of processed foods sampled by the department in 1990.
(b) The department shall continue its emphasis on contaminants of greatest health concern considering the likelihood that the contaminants may be present in foods, the likely quantities of the contaminants that might be consumed by the general population and sensitive subpopulations, with special emphasis on infants and children, and the likelihood that the contaminants are concentrated or altered by processing. Contaminants of greatest health concern include but are not limited to those food use pesticides identified in Section 12535 of the Food and Agricultural Code.
(c) The monitoring program under subdivision (a) shall include processed foods that are not produced or processed in this state. The department shall design the expanded monitoring program so that the department increases the percentage of samples taken from processed foods that are not produced or processed in this state above the percentage monitored in 1990. The focus on monitoring imported commodities is necessary because: (1) commodities produced outside of California are not supported by records of pesticide use which assist state agencies in providing meaningful monitoring and regulatory action and (2) such commodities may be grown with pesticides which are not registered in California or with pesticides applied under conditions not allowed in California.
(d) Prior to July 1, 1991, the department shall commence a study, utilizing the results of the department's monitoring program, to review and determine:
(1) the potential concentration of pesticide residues from processing and any health effects relating thereto: and
(2) the extent to which processed foods are part of the diet of infants and children.
SECTION 65.
Section 26506.6 of the Health and Safety Code is repealed.
~~26506.6. In addition to the fee paid pursuant to Section 26506.2, each registrant shall pay a surcharge of one hundred dollars ($100) to the director, in a form and manner prescribed by the director. This section shall not apply to those registrants the department determines should not be assessed due to limited applicability of Sections 12535, 12797, 12798, 13060, and 13061 of the Food and Agricultural Code or Section 26505.5 of this code to those registrants, or because substantial economic hardship would result to individual registrants. Revenue received pursuant to this section shall be deposited in the Food Safety Account in the Department of Food and Agriculture Fund. A penalty of 10 percent per month shall be added to any surcharge not paid when due.~~
SECTION 66.
Section 26509 of the Health and Safety Code is amended to read:
26509. (a) Every laboratory or other person which performs or which brokers or otherwise arranges for the performance of pesticide chemical analysis on food shall report to the appropriate state agency any finding of pesticide chemical residues in a food for which no chemical residue tolerance has been established or that is in excess of federal or state residue tolerances or tolerances for a pesticide suspended, banned, or otherwise not permitted by the Department of Food and Agriculture or the United States Environmental Protection Agency, if the food is in the channels of trade. The report shall be made as soon as possible, and in any event, ~~not later than~~ *within* 24 hours after the analyzing laboratory makes the finding. Findings on raw agricultural commodities and dairy products shall be reported to the Department of Food and Agriculture. Findings on all other foods shall be made to the ~~State~~ Department of Health Services.
(b) For ~~the purpose~~ *purposes* of reporting findings regarding raw agricultural commodities, "in the channels of trade" means the point at which the raw agricultural commodities leave the farm, including raw agricultural commodities bound for processing up to the point that processing is initiated. For the purpose of reporting findings in processed foods, "in the channels of trade" means at the point the processed food leaves the direct control of the processor, which means either that the product is not located on the premises owned by, or under the control of, the processor or a portion of the product has been released for sale or use.
(c) The person submitting the food for pesticide chemical analysis to a laboratory or other person shall certify in writing, at the time the sample is submitted for analysis, whether or not the food has entered the channels of trade, and if not, whether or not the food will enter the channels of trade prior to the communication of the test results to the person submitting the food for analysis. Absent that certification, the laboratory or person receiving the food for chemical analysis shall presume that the food has entered the channels of trade and make the report or reports required by subdivision (a).
(d) The department shall adopt standarized reporting guidelines for laboratories and shall provide laboratories with those guidelines and a list of citations and other sources of information regarding applicable pesticide chemical tolerances.
(e) The department shall provide to the reporting laboratory or other person, within a reasonable time, a written description of any additional information the department requests regarding the sample in question.
SECTION 67.
Section 26509.1 is added to the Health and Safety Code to read:
26509.1. Every laboratory or other person subject to Section 26509 shall maintain records of the results of each pesticide residue test performed for a period of two years after the date the test was performed.
SECTION 68.
Section 26509.2 is added to the Health and Safety Code to read:
26509.2. (a) Every laboratory or other person subject to Section 26509 shall report quarterly to the Department of Food and Agriculture, without reference to the specific entity for which the analysis was performed, the following general summary information for tests conducted on food in the channels of trade during the prior quarter:
(1) the commodity tested:
(2) the analytical tests performed:
(3) the pesticides detected:
(4) the levels at which the pesticides were detected:
(5) the samples analyzed that had no pesticides detected.
(b) The quarterly reports shall be designed to assist the regulatory agencies in augmenting the State's statistical information base on pesticide residues in food.
(c) Section 26509(b), (c), and (d) shall be applicable to this section.

SECTION 69.

Section 26522.5 is added to the Health and Safety Code to read:

26522.5. Food imported into California containing a detectable pesticide residue shall be regarded as adulterated if any of the following conditions exist: (1) the registration for the pesticide has been cancelled or suspended for use on that commodity in California; (2) the pesticide residue is in excess of a food residue tolerance or action level; or (3) the registrant has applied for California registration for the pesticide and the Department of Food and Agriculture has determined that the pesticide does not meet the Department of Food and Agriculture's registration criteria.

SECTION 70.

Section 26801 of the Health and Safety Code is amended to read:

26801. Any person ~~who violates~~ *convicted of violating* any provision of this division or any regulation adopted pursuant to this division shall ~~, if convicted,~~ be subject to imprisonment for not more than one year in the county jail or a fine of not more than ~~one thousand dollars ($1,000)~~ *one thousand five hundred dollars ($1,500)*, or both the imprisonment and fine. If the violation is committed after a previous conviction under this section which has become final, or if the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year ~~in the county jail, imprisonment in state prison,~~ or a fine of not more than ten thousand dollars ($10,000), or both the imprisonment and fine.

SECTION 71.

Section 26802 of the Health and Safety Code is amended to read:

26802. ~~One-half~~ *One-quarter* of all fines collected by any court or judge for any violation of any provision of this division shall be paid into the State Treasury to the credit of the General Fund *and one-quarter shall be paid into the Food Safety Fund created by Section 26200.5*.

SECTION 72.

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, ~~if the product is labelled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended,~~ 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 labelled, ~~the provisions of~~ this section ~~do~~ *shall* 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.

SECTION 73.

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, ~~if the product is labelled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended,~~ 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.

SECTION 74.

Section 6399.1 of the Labor Code is amended to read as follows:

6399.1. Compliance with regulations of the Director of Food and Agriculture issued pursuant to ~~Section 12981~~ *Article 10.5 of Chapter 2 of Division 7* of the Food and Agricultural Code shall be deemed compliance with the obligations of an employer ~~toward~~ *towards* his or her employees under this chapter.

SECTION 75.

Section 21080.6 of the Public Resources Code is added to read:

21080.6. The certification of the pesticide regulatory program pursuant to Section 21080.5 shall be reviewed by the Secretary of the Resources Agency and a recertification decision issued prior to January 1, 1993. The purpose of such review is to render an updated review of programs presently being implemented pursuant to the existing law and regulations so that the Secretary can determine if these revised and present programs qualify as functionally equivalent to the environmental protection afforded under Section 21080.5.

SECTION 76.

Section 32006 is added to the Vehicle Code to read:

32006. (a) It shall be unlawful for any tank truck carrier or vacuum truck carrier to transport food in any tank truck, tank truck trailer, vacuum type tank truck, or vacuum type tank truck trailer that is also used to transport hazardous materials.

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

(1) Food is defined by Section 26012 of the Health and Safety Code.

(2) Tank truck carrier is defined by Section 3522 of the Public Utilities Code.

(3) Vacuum truck carrier is defined by Section 3523 of the Public Utilities Code.

(4) Hazardous materials is defined by Section 353 of the Vehicle Code.

(c) Any carrier who violates this section, in addition to any other penalty provided by law, is subject to a civil penalty of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000) for each violation.

(d) Any carrier who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500), or by imprisonment of not less than 10 days nor more than six months, or both by fine and imprisonment. Each violation constitutes a separate offense.

(e) The Departments of Health Services, Food and Agriculture, [illegible] Transportation shall jointly conduct a study to review the extent to which fo[illegible] hauled by tank truck carriers or vacuum truck carriers in vehicles or trailers [illegible] also carry hazardous materials and develop recommendations on additional programs or legislative reforms to further protect food during transport. The departments shall report the results of this study to the Governor and to the Legislature no later than December 1, 1991.

SECTION 77.

Section 13052 is added to the Water Code to read:

13052. As used in this division, "pesticide" means an economic poison as defined in Section 12753 of the Food and Agricultural Code.

SECTION 78.

Section 13173 is added to the Water Code to read:

13173. No later than July 1, 1991, the board shall adopt statewide water quality objectives for those pesticides which are listed as toxic pollutants pursuant to Section 307 of the Federal Clean Water Act and which the discharge or presence of in the affected waters of the state could reasonably be expected to interfere with beneficial uses. In developing those objectives, the state board shall consider the criteria for water quality developed and published by the United States Environmental Protection Agency pursuant to Section 304 of the Federal Clean Water Act and the latest scientific knowledge regarding the type and extent of effects on beneficial uses.

SECTION 79.

Section 13174 is added to the Water Code to read:

13174. The state board shall, on or before January 1, 1992, develop and implement a program for the monitoring and evaluation of pesticide residues and chemical residues in waters of the state. The program shall focus on pesticide residues and chemical residues which may be discharged into waters of the state and which may cause adverse impacts to waters of the state if present in sufficient quantities.

SECTION 80.

Section 13175 is added to the Water Code to read:

13175. By January 1, 1993, the state board, in consultation with the regional boards, shall implement a Nonpoint Source Management Plan. The purpose of the plan will be to ensure, through the implementation of best management practices, that relevant and applicable water quality objectives, including those for pesticide residues, are achieved in waters of the state within reasonable time periods. In implementing the provisions of the plan which relate to pesticide residues, the state board shall consult with the Department of Food [illegible] Agriculture and consider information gained from the program specifie[illegible] Section 13174.

SECTION 81.

Section 13241.1 is added to the Water Code to read:

13241.1. By January 1, 1993, each regional board, in consultation with the state board, shall review existing water quality standards and objectives related to chemicals set forth in the regional board's water quality control plan to determine whether the objectives are based on consideration of actual risks to public health and the environment. Each regional board, shall, after a public hearing, revise existing water quality standards and objectives, as necessary, in order to incorporate considerations of actual risks to public health and the environment.

SECTION 82.

Section 13242.1 is added to the Water Code to read:

13242.1. Each regional board shall by January 1, 1995, review its water quality control plan and the implementation of the state's Nonpoint Source Management Plan and best management practices in its region to determine whether relevant and applicable water quality objectives related to chemicals are being achieved within reasonable time periods.

SECTION 83.

Section 13263.3 is added to the Water Code to read:

13263.3. Each regional board shall by January 1, 1994, review its water quality control plan and point source discharge permits and waste discharge requirements to determine whether the existing permits and requirements are consistent with the plan. In the renewal review for the permits and requirements, each regional board shall ensure that its permits and requirements are revised, if necessary, to be consistent with the plan.

SECTION 84.

Should this initiative measure, the Environmental Protection Act of 1990, and any other initiative measure in this election dealing with pesticide enforcement for food, water, and worker safety be passed, the initiative with the greater number of votes should be implemented in its entirety at the exclusion of any components of the Environmental Protection Act of 1990 or any other initiative measure dealing with pesticide enforcement for food, water, and worker safety.

SECTION 85.

If any provision of this initiative measure, or the application of that provision to any person or circumstances, is held invalid, the remainder of this initiative measure, to the maximum extent it can be given effect, or the application of the provision to persons or circumstances other than those to which it is held inv[illegible] shall not be effected thereby, and to this end the provisions of this initi[illegible] measure are severable.

SECTION 86.

The provisions of this initiative measure shall be amended by the Legislature to further its purposes by a statute passed in each house, two-thirds of each membership concurring.

SECTION 87.
It is the intent of the people that the provisions of this initiative measure constitute an integrated and comprehensive set of statutory amendments for reform of pesticide enforcement for food, water, and worker safety. The people find that these amendments present a balanced reform package and it is their intent that additional, simultaneous burdens related to the same subject not be placed on state and local governments, food producers, food processors, or the public who depend upon an adequate supply of nutritious food. Accordingly, it is the intent of the people to implement this initiative measure relating to pesticide enforcement for food, water, and worker safety to the exclusion of the Environmental Protection Act of 1990 or any other initiative measures which may be adopted at the same time on the same subject. To that end, if this initiative measure receives a higher number of votes than the Environmental Protection Act of 1990 or another initiative measure at the same election, such initiative measures to the extent they regulate pesticide enforcement for food, water, and worker safety shall be deemed to be inconsistent with this initiative measure within the meaning of Section 10 subdivision (b) of Article II of the California Constitution.

Proposition 136: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by repealing and adding sections thereto; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE TAXPAYERS RIGHT-TO-VOTE ACT OF 1990

SECTION 1. Title. This Act shall be known and may be cited as The Taxpayers Right-to-Vote Act of 1990.

SECTION 2. Findings and Declarations. The People of the State of California hereby find and declare as follows:

(a) Taxes should not be imposed on the People of California without their consent.

(b) In order to protect all taxpayers from sudden and unreasonable increases in general taxes which would threaten their economic security, limitations should be placed on general tax increases and the imposition of new general taxes.

(c) In order to protect targeted segments of taxpayers from special taxes imposed upon them alone, limitations should be placed on special tax increases and the imposition of new special taxes by special interests.

(d) No increase in special taxes imposed by counties, special districts, charter cities, or general law cities, and no new special tax imposed by these entities, should take effect without a two-thirds vote of the People.

(e) No increase in special taxes imposed by the State of California, and no new special tax imposed by the State of California, should take effect without a two-thirds vote of the People or a two-thirds vote of both houses of the Legislature.

(f) No increase in general taxes imposed by the State of California, and no new general tax imposed by the State of California, should take effect without a majority vote of the People or a two-thirds vote of both houses of the Legislature.

(g) No increase in general taxes imposed by counties, special districts, charter cities, and general law cities, and no new general tax imposed by these entities, should take effect without a majority vote of the People.

(h) No excessive and unfair special taxes with respect to tangible personal property should be imposed.

(i) In keeping with the spirit of Proposition 13, except as provided in Article XIII A, §§ 1 and 2 of the California Constitution, no new ad valorem taxes on real property or sales or transaction taxes on the sale of real property may be imposed.

SECTION 3. Purpose and Intent. The People of the State of California declare that their purpose and intent in enacting this measure is as follows:

(a) To prevent the imposition of any new State general tax or an increase in any existing State general tax without a majority vote of the People or a two-thirds vote of both houses of the Legislature.

(b) To prevent the imposition of any new State special tax or an increase in any existing State special tax without a two-thirds vote of the People or a two-thirds vote of both houses of the Legislature.

(c) To prevent the imposition of any new local general tax or an increase in any existing local general tax without a majority vote of the People.

(d) To prevent the imposition of any new local special tax or an increase in any existing local special tax without a two-thirds vote of the People.

(e) To protect against the imposition of excessive and unfair special taxes with respect to tangible personal property.

(f) To prohibit the imposition of any new ad valorem taxes on real property or any transaction tax or sales tax on the sale or transfer of real property except as provided in Article XIII A, §§ 1 and 2 of the California Constitution.

SECTION 4. Section 3 of Article XIII A of the California Constitution is repealed.

~~SECTION 3. From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.~~

SECTION 5. State Government General and Special Tax Limitation. Section 3 is hereby added to Article XIII A of the California Constitution to read as follows:

SECTION 3. (a) From and after the effective date of this section, any increases in State general or special taxes whether by increased rates, changes in methods of computation, any other increase in an existing tax, or any new tax must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, or as provided in subsection (b).

(b) From and after the effective date of this section, any increases in State taxes whether by increased rates, changes in methods of computation, any other increase in an existing tax, or any new tax also may be enacted by an initiative passed, in the case of a general tax, by not less than a majority vote of the voters voting in an election on the issue or, in the case of a special tax, and notwithstanding Article II, § 10(a) of the California Constitution, by not less than a two-thirds vote of the voters voting in an election on the issue, or as provided in subsection (a).

(c) Except as provided in Article XIII A, §§ 1 and 2 of the California Constitution, no new ad valorem taxes on real property or sales or transaction taxes on the sale of real property may be imposed.

(d) Any special tax with respect to tangible personal property enacted on or after November 6, 1990, must be an ad valorem tax and must comply with the provisions of Article XIII, § 2 of the California Constitution.

(e) As used in this section, "general taxes" are taxes, including, but not limited to, income taxes, excise taxes, and surtaxes, levied for the general fund to be utilized for general governmental purposes; "special taxes" are taxes, including, but not limited to, income taxes, excise taxes, surtaxes, and tax increases, levied for a specific purpose or purposes or deposited into a fund or funds other than the general fund. Taxes on motor vehicle fuel shall be considered general taxes for purposes of this section.

SECTION 6. Section 4 of Article XIII A of the California Constitution is repealed.

~~SECTION 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district.~~

SECTION 7. Local Government and District General and Special Tax Limitation. Section 4 is hereby added to Article XIII A of the California Constitution to read as follows:

SECTION 4. (a) Notwithstanding Article II, §9(a) of the California Constitution, no local government or district, whether or not authorized to levy a property tax, may impose any new general tax or increase any existing general tax on such locality or district unless and until such proposed general tax or increase is submitted to the electorate of the local government or of the district and enacted by a majority vote of the voters voting in an election on the issue.

(b) Notwithstanding Article II, §9(a) of the California Constitution, no local government or district may impose any new special tax or increase any existing special tax on such locality or district unless and until such proposed special tax or increase is submitted to the electorate of the local government or of the district and enacted by a two-thirds vote of the voters voting in an election on the issue. The revenues from any special tax shall be used only for the purpose or service for which it was imposed, and for no other purpose whatsoever.

(c) Except as provided in Article XIII A, §§ 1 and 2 of the California Constitution, no local government or district may impose any new ad valorem taxes on real property or a transaction tax or sales tax on the sale or transfer of real property within that local government or district.

(d) A tax subject to the vote requirements of subdivisions (a) or (b) of this section shall be proposed by an ordinance or resolution of the legislative body of the local government or of the district. The ordinance or resolution shall include the type of tax and maximum rate, if any, of tax to be levied, the method of collection, the date upon which an election shall be held on the issue, and, if a special tax, the purpose or service for which its imposition is sought.

(e) As used in this section, "local government" means any city, county, city and county, including a chartered city or county or city and county, or any public or municipal corporation; "district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(f) As used in this section, "general taxes" are taxes levied for the general fund to be utilized for general governmental purposes; "special taxes" are taxes levied for a specific purpose or purposes or deposited into a fund or funds other than the general fund. As used in this section, "voter" is a person who is eligible to vote under the provisions governing the applicable election. All taxes imposed by any entity of local government shall be deemed to be either general taxes or special taxes. Sales and use taxes voted on at a local level for transportation purposes shall be considered general taxes for purposes of this section.

SECTION 8. Disaster and Emergency Relief. Section 7 is hereby added to Article XIII A of the California Constitution to read as follows:

SECTION 7. The provisions of sections 3(a) and (d) of this article which impose limits on new or existing State taxes may be suspended by a two-thirds vote of the Legislature and the approval of the Governor in order to permit funds to be raised for up to two years for disaster relief required by earthquake, fire, flood, or similar natural disaster or for emergencies declared by the Governor. The provisions of sections 4(a) and (b) of this article which impose limits on new or existing local taxes may be suspended by a two-thirds vote of the legislative body of the local government or district, as defined in section 4(e) above, in order to permit funds to be raised for up to two years for disaster relief required by earthquake, fire, flood, or similar natural disaster or for emergencies declared by the Governor.

SECTION 9. Liberal Construction. The provisions of this Act shall be liberally construed to effect its purposes.

SECTION 10. Effective Date. This Act shall take effect on November 6, 1990.

SECTION 11. Conflicting Law. Pursuant to Article II, §10(b) of the California Constitution, if this measure and another measure appear on the same ballot and conflict, and this measure receives more affirmative votes than such other measure, this measure shall become effective and control in its entirety and said other measure shall be null and void and without effect. If the constitutional amendments contained in this measure conflict with statutory provisions of another measure on the same ballot, the constitutional provisions of this measure shall become effective and control in their entirety and said other measure shall be null and void and without effect irrespective of the margins of approval. This initiative is inconsistent with any other initiative on the same ballot that enacts any tax, that employs a method of computation, or that contains a rate not authorized by this measure, and any such other measure shall be null and void and without effect.

SECTION 12. Severability. If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

Proposition 137: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE II

Section 11.5 is added to Article II of the California Constitution as follows:

SEC. 11.5. The power of initiative and referendum is reserved to the people and laws affecting the power shall be submitted to the people. A statute enacted after the adoption of this section, which provides the manner in which statewide or local initiative or referendum petitions are circulated, presented, or certified or the manner in which measures are submitted to the electors or otherwise establishes procedures or requirements for a statewide or local initiative or referendum including the initiative powers set forth in section 3 of Article XI, shall become effective only when approved by the electors.

Proposition 138: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends and adds sections to the Public Resources Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

TITLE ONE

Section 1.

This initiative shall be known as the Global Warming and Clearcutting Reduction, Wildlife Protection and Reforestation Act of 1990.

TITLE TWO

Section 2.

The people of the State of California find and declare:

1. There is evidence that widespread use of fossil fuels, conversion of South American forests to agricultural use, urban development and the toxic emissions of industry are all contributing to the gradual warming of the earth's atmosphere.
2. Global warming may have a major impact on California, including massive forest fires, reduction of wetlands, flooding of coastal areas and the loss of prime food producing land.
3. It is important to the long-term economic and physical health of the people of California to act now, as the first state to take reasonable steps to avoid the devastation of global warming.
4. The forests of this state, whether privately owned or owned by the federal or state governments, should be managed and utilized in a manner that makes a substantial contribution to lowering of carbon dioxide levels in the atmosphere.
5. It is in the public interest to plant trees in urban areas because growing trees helps remove carbon dioxide from the atmosphere and reduce energy use.
6. The most effective steps toward protection from global warming can be achieved with a fair and careful balance of the public's right to a healthy, high-quality environment and the preservation of private property rights.
7. Reforestation and other forest resource improvement projects in California's wildland areas will enhance wildlife habitat, increase bio-diversity for the long-term health of ecosystems and stabilize watersheds and water quality.
8. Timber harvesting in this state should be conducted in a manner that protects all species listed under state or federal law as Threatened or Endangered, and other species of special concern identified by the State Board of Forestry. Therefore, fish and wildlife management plans, prepared by a certified wildlife biologist, shall be part of long-term timber management plans.
9. It is the policy of this State to ensure that healthy forests are maintained for future generations and that more trees are planted than are harvested.
10. Clearcutting of old-growth forests shall be prohibited, except when it is essential to stop the spread of disease or harmful insects, or to salvage fire-damaged timber.
11. Clearcutting of forests other than old growth shall be substantially reduced.
12. It is the objective of this state to encourage the continued existence of a viable private timber industry in California and maintain a skilled and healthy labor force. Therefore, the export of raw unprocessed logs from this state to foreign countries should be prohibited.
13. California's old growth redwood forests now in state parks must continue to be protected. Four expansions to existing state parks are hereby authorized.
14. Private timberland owners should be encouraged to open suitable portions of their property to the public for recreational purposes.

Section 3.

Declarations of Purpose. The purposes of this initiative are:

A. To enhance and protect the environment by:

1. Authorizing and requiring timber management practices and other programs that diminish carbon dioxide production and increase oxygen production from forests and other lands in California;
2. Prohibiting clearcutting of old growth timber except in very narrow circumstances where it is essential; and substantially reducing clearcutting of other forest lands.
3. Authorizing and providing funding for research into the relationship between California, national, and worldwide forestry practices and global warming trends, and into development of a statewide geographic inventory system to be used to assure the maintenance and enhancement of habitats for both game and non-game wildlife in the forests of this state.

B. To protect and enhance certain state parks containing old growth redwood trees by authorizing the state to purchase or condemn as buffers privately owned timberlands that are contiguous to specified parklands.

C. To balance timber production and wildlife protection objectives by requiring the owners of large tracts of timberland to prepare and implement wildlife management plans and long-term timber management plans.

D. To encourage private timberland owners to open portions of their property to the public for recreational purposes.

E. To request Congress to prohibit the foreign export of unprocessed logs produced on state or privately owned timberland in California.

F. The statements of policy and purpose here and throughout this Act imply substantive and affirmative obligations incumbent upon government agencies in California and, whenever appropriate, they are enforceable.

TITLE THREE

Section 4.

Chapter 6 (commencing with Section 4820) is added to Part 2.5 of Division 4 of the Public Resources Code, to read:

Article 1. General Provisions

4820. This Chapter shall be known as the Global Warming Protection and Urban Reforestation Program.

4821. As used in this Chapter, the following terms have the following meanings:

(a) "Committee" means the Reforestation and Urban Forestry Finance Committee created pursuant to Section 4822.

(b) "Department" means the Department of Forestry and Fire Protection.

(c) "Forest Land" means land at least 10 percent occupied by forest trees of any size, or formerly having had that tree cover, and not currently zoned for uses incompatible with forest resource managment.

(d) "Forest resource improvement projects" means all of the following:

(1) Site preparation.

(2) Planting and costs of seeds and seedlings.

(3) Young growth stand improvement.

(4) Forest land conservation measures, consisting of measures designed to protect, maintain, or enhance the forest resource system, including soil and watershed values and diversity of forest species.

(5) Fish and wildlife habitat improvement, consisting of measures designed to protect, maintain, or enhance fish and wildlife habitat, including, but not limited to, stream clearance, reestablishment of desirable vegetation along stream channels and elsewhere, measures to encourage habitat diversity, and restoration of anadromous fisheries.

(6) Follow up work, consisting of work necessary to promote the survival of seed or seedlings planted, or protection or enhancement of other work undertaken, as part of a prior forest resource improvement project.

(e) "Fund" means the Reforestation and Urban Forestry Fund of 1990 created pursuant to Section 4822.

(f) "Hardwood range land" means non-conifer land on which it is biologically and technically feasible to carry a 10 percent canopy at maturity of native hardwoods (excluding eucalyptus), including heavily tree-covered land, woodland, savanna, and grassland.

(g) "Smaller nonindustrial landowner" means an owner of 5,000 acres or less of forest land or hardwood range land.

Article 2. Reforestation and Urban Forestry Program

4822. The proceeds of bonds issued and sold pursuant to this Chapter shall be deposited in the California Reforestation and Urban Forestry Fund of 1990, which is hereby created.

4823. All money deposited in the fund shall be available upon appropriation by the Legislature, for expenditure by the Department, in accordance with Section 4826, for the purposes set forth in this section, in amounts not to exceed the following:

(a) One hundred twenty million dollars ($120,000,000) for loans and grants to smaller nonindustrial landowners for forest resource improvement and reforestation projects on forest land or hardwood range land pursuant to Chapter 1 (commencing with Section 4790).

(b) Eighty million dollars ($80,000,000) for allocation by the department as follows:

(1) Forty million dollars ($40,000,000) for grants to state agencies, counties, cities, park districts, and other state or public agencies to rehabilitate and restore publicly owned forest land, parks, wildlife habitat, and other natural lands through reforestation, tree planting, and other forest resource improvement projects, giving emphasis to those lands which have been substantially damaged or degraded by fire, flood, insects, disease, other natural causes, or past misuse.

(2) Forty million dollars ($40,000,000) for grants to public land trusts and nonprofit organizations to rehabilitate and restore forest land, wildlife habitat, and other natural lands through reforestation and other forest resource improvement projects, giving emphasis to those lands substantially damaged or degraded by fire, flood, insects, disease, other natural causes, or past misuse.

(c) One hundred million dollars ($100,000,000) for grants to local governmental agencies and nonprofit organizations for urban forestry projects pursuant to Section 4822.

4824. (a) The Department shall establish a program to make grants of the money available pursuant to subdivision (c) of Section 4821 to local governmental agencies and nonprofit organizations of urban forestry projects in accordance with the goals and criteria specified in this section.

(b) The purpose of grants awarded pursuant to this section is to further the following goals:

(1) Provide the greatest positive impact on air quality, energy conservation, elimination of "greenhouse" gases, reduction of surface water runoff, and other environmental and aesthetic benefits from tree planting, in light of all the goals specified in this section.

(2) Ensure long-term management, utilization and maintenance of the trees planted.

(3) Incorporate community involvement and participation into every urban forestry project funded, and encourage cooperation between the community and local agencies in designing and implementing urban forestry projects.

(4) Encourage urban forestry projects which will inspire or stimulate subsequent or additional privately funded projects.

(5) Encourage the planting of tree species appropriate and adapted to the soil and climate conditions of the project area, with particular emphasis on native and drought-tolerant species.

(6) Facilitate interaction between urban dwellers and the natural environment and ensure public accessibility to the trees planted, with particular focus on low-income neighborhoods and areas where the public has limited access to greenery or open space.

(c) Within 120 days after the effective date of this Chapter, the Department shall adopt criteria and guidelines for the awarding of the grants specified in this section. The criteria and guidelines shall be designed to accomplish the goals specified in subdivision (b) this section.

(d) The Department shall convene an Advisory Committee to assist in preparing the criteria and guidelines specified in subdivision (c) this section and select the projects to be funded. The Advisory Committee shall consist of not less than seven or more than 25 members, who may be members of the public, representatives of local governmental agencies and nonprofit organizations, and horticultural or forestry professionals.

(e) At a minimum, urban forestry projects funded pursuant to this section shall meet all of the following requirements:

(1) The owners of the trees proposed to be planted shall certify that the trees will be maintained over the lifetime of the trees, or the project applicant shall demonstrate through some other appropriate mechanism that the trees will be properly cared for and maintained.

(2) The city or county in which the trees are to be planted has developed a long-term urban tree management plan or intends to develop one.

(3) Grant applicants shall provide a contribution of materials, services, equipment, or money.

(f) A project which proposes to plant trees on private property is eligible for funding pursuant to this section if the project meets the requirements specified in this section.

No funds provided for by this act may be utilized to meet restocking requirements imposed by the Z'berg-Nejedly Forest Practices Act.

Article 3. Miscellaneous Provisions

4825. (a) To the maximum degree feasible, with respect to funds allocated for reforestation, public planting, or other forest resource improvement projects pursuant to subdivision (b) of Section 4823, the Department shall give emphasis to those projects utilizing native species. The Department shall also take steps to ensure that seedlings are adapted to the planting site and represent appropriate diversity of conifer and deciduous forest tree species.

(b) In order to ensure that trees planted with funds allocated pursuant to Section 4823 are alive and healthy, and that the program is cost-effective, the Department, through operation of the existing state forest nursery system and in cooperation with private nurseries, shall ensure that scientifically sound methods and technologies are utilized for collecting seed, propagating seedlings, preparing planting sites, and planting trees.

(c) To the extent possible, the Department shall require that a significant portion of the tree seedlings needed for reforestation purposes and public planting be obtained from private industry, if the standards specified in subdivision (b) are met.

4826. The Department shall encourage use of California Conservation Corps members, conservation camp inmates, and wards to implement reforestation and other forest resource improvement projects financed with funds allocated pursuant to Section 4823, subject to the consent of the affected landowner or land management agency.

4827. All administrative costs and related contract expenses incurred by the Department that are related to reforestation, forest resource improvement, and urban forestry projects conducted pursuant to Sections 4823 and 4824 shall be financed from the Forest Resources Improvement Fund. Proposed expenditures for these purposes shall be included in a section of the Budget Bill for the 1991–92 fiscal year and each succeeding fiscal year for consideration by the Legislature.

4828. (a) Appropriations from the Fund shall be included in a section of the Budget Bill for the 1991–92 fiscal year and each succeeding fiscal year for consideration by the Legislature and shall bear the caption "California Reforestation and Urban Forestry Program." The section shall contain separate items for each class of project or each element of the program for which an appropriation is made.

(b) The appropriations are subject to all limitations enacted in the Budget Act and to all fiscal procedures prescribed by law with respect to the expenditure of state funds unless expressly exempted from those laws by a statute enacted by the Legislature. The Budget Act shall contain proposed appropriations only for the program elements and classes of projects contemplated by this Chapter, and no funds derived from the bonds authorized by law for the purposes of this Chapter may be expended pursuant to an appropriation not contained in those sections of the Budget Act.

Article 4. Fiscal Provisions

4830. Bonds in the total amount of three hundred million dollars ($300,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this Chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

4831. The bonds authorized by this Chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this Chapter and are hereby incorporated in this Chapter as though set forth in full in this Chapter.

4832. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this Chapter, the Reforestation and Urban Forestry Finance Committee is hereby created. For purposes of this Chapter, the Reforestation and Urban Forestry Finance Committee is "the Committee" as that term is used in the State General Obligation Bond Law. The Committee consists of the Controller, the Treasurer, the Director of Finance, and the Director of Forestry and Fire Protection, or their designated representatives. The Director of Forestry and Fire Protection shall serve as chairperson of the Committee. A majority of the Committee may act for the Committee.

(b) For purposes of the State General Obligation Bond Law, the Department is designated the "Board."

4833. The Committee shall determine whether or not it is necesssary or desirable to issue bonds authorized pursuant to this Chapter in order to carry out the actions specified in Section 4823 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

4834. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

4835. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this Chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this Chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 4836, appropriated without regard to fiscal years.

4836. For the purposes of carrying out this Chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the Committee to be sold for the purpose of carrying out this Chapter. Any amounts withdrawn shall be deposited in the Fund. Any money made available under this section shall be returned to the General Fund from money received from the sale of bonds for the purpose of carrying out this Chapter.

4837. All money deposited in the Fund which is derived from premium and accrued interest on bonds sold shall be reserved in the Fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

4838. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law.

4839. The people hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this Chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that Article.

TITLE FOUR

Section 5.

Section 4582.1 is added to the Public Resources Code to read:

4582.1. (a) The silvicultural method of clearcutting, is banned in any old-growth private timber in California. "Old-growth timber" for the purposes of this section means timber that is naturally occurring, i.e. not planted, on lands that are at least 10 acres in size, which have not previously been subjected to

commercial harvest or on lands that are at least 10 acres in size which average 10 or more trees per acre which are 200 years old or older. "Clearcutting" for the purposes of this section means the removal of all trees in a defined area at one time such that after harvest, the removal does not meet the stocking standards of Public Resources Code Section 4561.

(b) To further effect a 50% reduction of all timberland acreage harvested by the silvicultural technique of clearcutting by the end of 1995, for all private timberland in the State of California not subject to subsection (a) above, the use of clearcutting shall be subject to the following restrictions:

(1) For timberland owners who have used clearcutting to harvest more than 20% of their average annual acreage harvested during the 5-year period ending December 31, 1989, the 1991 maximum acreage available for clearcutting shall be the average annual acreage harvested by the clearcut method during the 5 years ending December 31, 1989, reduced by 10%.

(2) In each succeeding year, from 1992 through 1995, for each timberland owner subject to paragraph (1) above, the acreage available for clearcutting shall be reduced again by the acreage reduction calculated in (1) above.

(3) For timberland owners not subject to (b) (1) & (2) above, the use of clearcutting shall be restricted to no more than 10% of the acreage harvested per year.

(c) Subsection (a) & (b) do not apply to the harvest of Christmas trees, hardwood tree plantations, authorized emergency sanitation cuttings necessary to control outbreaks of disease or insect pests, operations to salvage dead or dying trees, construction of fuel breaks and roadways, or to harvests for which no timber harvest plan is required.

(d) In every case where clearcutting is utilized, except situations exempted by subparagraph (c), the long-term timber management plan or timber harvest plan pursuant to which the harvesting occurs must require a visual set back or buffer zone where no clearcutting shall occur of at least 100 feet between the harvest area and all state highways, parks and other publicly owned recreational areas.

(e) Subsection (a) & (b) of this section do not prohibit utilization of the other silvicultural techniques authorized by the Board of Forestry and designed to achieve even aged timber management. These techniques may continue to be utilized as authorized by the rules of the Board. In its rules, except as provided in this section, the Board may not ban, throughout the state, any silvicultural technique such as seed tree, shelterwood, overstory removal or selection without regard to the differences in such factors relevant to the effects of harvesting upon timber production and the environment such as, without limitation, geography, type of species, age, previous harvesting techniques employed and the intensity of management already being practiced.

(f) By 1996, after operation of this Chapter, the Board of Forestry shall undertake a statewide assessment of the clearcut reduction program required by this section to determine its impacts upon production of wood fiber, affordable housing, wildlife populations and habitat, rural economic stability, timberland productivity and timber industry viability and employment.

(g) On all areas lawfully clearcut in accordance with the provisions of this section, a minimum of 300 trees per acre shall be established in accordance with Section 4561 of Act 5, Chapter 8 of Part 2 of Division 4 of Public Resources Code, to reforest the site harvested.

TITLE FIVE

Section 6.

Chapter 5 (commencing with Section 4800), Part 2.5 of Division 4 of the Public Resources Code is amended to read:

CHAPTER 5. TIMBERLAND WILDLIFE *AND GLOBAL WARMING* STUDY

4800. It is the intent of the ~~Legislature~~ *people*, in enacting this ~~chapter~~ *Chapter*, to do all of the following:

(a) To provide coordination on wildlife and timberland issues ~~within the Resources Agency~~.

(b) To improve and coordinate the state data bases for use in analyzing the *direct and* cumulative impacts of timber harvesting ~~pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000))~~, *including the relationships of commercial forestry in the State of California to both the enhancement or diminishment of forest habitat for game and non-game wildlife species including fish, and any regional, national and global warming trend caused or increased by the "greenhouse effect."*

(c) To improve the technical basis upon which the Department of Fish and Game predicates recommendations for mitigating site-specific and cumulative effects on wildlife from timber harvesting activities.

(d) To develop a statewide geographic inventory system that can be used to assure the maintenance of habitat for both game and non-game wildlife species.

(e) To improve the technical basis upon which long-term timber management plans and wildlife management plans may be prepared by registered professional foresters and certified biologists as required by law.

~~(d)~~ *(f)* To provide recommendations to the ~~board~~ *Board of Forestry* concerning creation of a list of species of special concern for which additional forest practices rules may be needed.

~~(e)~~ *(g)* To provide recommendations to the Fish and Game Commission concerning additions to its list of species that are threatened or endangered.

~~(f)~~ *(h)* To provide authority to the state to work cooperatively with the United States Forest Service, including the ability to provide and receive funding for wildlife studies.

(i) To provide an additional source of funding for the required studies.

4801. The Timberland Task Force is hereby created. The Secretary of the Resources Agency or the ~~secretary's~~ *Secretary's* designee shall serve as chairperson of the task force. The Director of Forestry and Fire Protection and the Director of Fish and Game shall also be members of the task force. The ~~secretary~~ *Secretary* and two ~~directors~~ *Directors* shall select eight additional members by March 1, 1990, with technical knowledge of biology or management of timberland ecosystems, with one person from each of the following:

(a) The timber industry.

(b) Environmental organizations.

(c) A California academic institution.

(d) United States Forest Service.

(e) Bureau of Land Management of the United States Department of Int[illegible]

(f) National Park Service.

(g) The Department of Parks and Recreation.

(h) The United States Fish and Wildlife Service.

4802. The Timberland Task Force shall do all of the following:

(a) Develop a coordinated base of scientific information on the location, extent, and species composition of timberland ecosystems in California which does all of the following:

(1) Accommodates a range of definitions for timberland habitats, including ~~old growth~~ *old-growth* timberland.

(2) Permits evaluation of the cumulative impact of timber harvesting and other activities on the bio-diversity of timberland ecosystems and on individual species.

(3) Permits evaluation of timberland habitat for its contribution, if any, to the overall maintenance of specific wildlife species in California.

(4) Permits estimation of the economic impact of alternative mitigation measures.

(b) Design and contract for studies to do the following:

(1) Validate wildlife habitat models and propose management prescriptions for *game and non-game* wildlife species utilizing timberland habitats.

(2) Evaluate the effectiveness of alternative mitigation measures designed to minimize significant adverse environmental impacts of timber harvesting.

(3) Develop and evaluate alternative management programs designed to maintain or develop the physical characteristics of wildlife habitats.

(4) Identify and evaluate the contribution of forests in the State of California to the production, enhancement, or diminishment of greenhouse gases, such as carbon dioxide, and the relationship of timber growing and harvesting in the State of California to global warming.

(c) Identify critical habitat areas necessary to maintain and restore viable populations of species dependent upon specific timberland habitats for all or part of their life cycle. Studies shall commence on ~~old growth~~ *old-growth* and associated timberland habitats utilized by ~~old growth/associated~~ *old-growth associated* wildlife species. Work shall commence in the north coastal region and proceed to the northern, central, and southern Sierra region.

(d) Identify species of special concern as follows:

(1) Identify wildlife species that are or may become endangered, threatened, or of special concern as the result of management activities on private and public timberlands.

(2) Conduct evaluations which include a statement of the relative risk of extinction on a regional and statewide basis. *Such evaluations are to be made [illegible] after considering the scientific basis for such determination and emphasis [illegible] be given to information developed by scientists that are recognized as having special knowledge in their fields.*

(e) Identify and evaluate or design alternative management programs for publicly and privately owned forest land in the State of California which will minimize production of, or lead to the diminishment of, greenhouse gases contributing to global warming.

4803. On or before January 1, 1992, the task force shall transmit its findings to the Fish and Game Commission, with recommendations to add or remove species from the candidate list of threatened or endangered species. The task force shall make recommendations to the ~~board~~ *Board of Forestry* for the establishment of a list of "~~Species of Special Concern~~" *"species of special concern"* for which new forest practice rules may be necessary pursuant to Chapter 8 (commencing with Section 4511) of Part 2.

4804. On or before January 1, 1992, the task force shall report to the Legislature on the implementation of this ~~chapter~~ *Chapter*, the results of the ~~study~~ *studies herein required*, the recommendations made to other agencies, and the operation of the data base.

4805. (a) The ~~director~~ *Director of CDF* shall establish a schedule of user fees for persons using the ~~department's~~ *CDF* data base developed pursuant to Section 4802, which does not exceed the reasonable costs for developing, updating, and maintaining the data base.

(b) The ~~department~~ *Department* shall utilize its data base for the review of timber harvesting plans *and timber management plans* as appropriate, and shall permit the use of its data base by timber harvesting plan *and timber management plan* applicants for the preparation of timber harvesting plans *and timber management plans* and by other persons, upon request.

(c) Commencing on January 1, 1992, the ~~department~~ *Department* shall charge a fee to users of the data base pursuant to this section.

Section 7. Sections 4806 and 4807 [and 4808] are added to Chapter 5, Part 2.5 of Division 4 of the Public Resources Code to read as follows:

4806. Nothing in this Chapter shall be interpreted to curtail, halt, or otherwise regulate timber harvesting during the course of the studies required or authorized by this Chapter.

4807. In order to provide a further source of funding for the research and study program required by this Chapter, from the effective date of this initiative until December 31, 1991, a fee will be assessed on submitters of THPs or Timber Harvest Notices submitted pursuant to Article 7.6 of Part 2 Division 4 of the Public Resources Code and the rules of the Board of Forestry. The fee shall [illegible] the amount of $3.00 per acre for each acre included in a valid and app[illegible] Timber Harvest Plan or Timber Harvest Notice and will be collected and administered by the Director of CDF to fund the studies required by this Article.

4808. The fees required to be paid pursuant to this Article will be deposited in the Timberland Wildlife Management Fund in the State Treasury which is hereby created.

Section 8.

Article 7.6 (commencing with Section 4595) is added to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 7.6. Long-Term Industrial Timberland Management Plan

4595. The people of the State of California find and declare:

(a) A significant portion of the timberlands of the State is held by private persons; and it is the policy of the State to increase the productivity of these timberlands under prudent management plans to serve the public's need for timber and other forest products and to achieve the goal of maximum sustained production of high-quality timber products while giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, and aesthetic enjoyment. All regulations and rules implementing this Article shall incorporate these goals and policies.

(b) The risk of environmental harm resulting from the harvest of timberlands is minimized by long-term planning designed to maximize production of forest products while giving consideration to environmental concerns.

(c) It is the policy of the state to encourage prudent and responsible forest resource management of timberlands by requiring long-term industrial timber management plans.

4595.1. Notwithstanding Section 4521, unless the context requires otherwise, the following definitions govern construction of this Article:

(a) "Industrial Timberlands" means timberland, zoned timber production zone (TPZ) pursuant to Government Code Section 51112 or 51113, owned by a private person.

(b) "Industrial Timberland Owner" means an owner of industrial timberland of greater than five thousand (5,000) acres and who is engaged in the production and harvesting of forest products.

(c) "Managed Stand" means an aggregate of trees whose composition, age and spatial arrangement has been developed by planned application of specific management practices to achieve identifiable growth objectives.

(d) "Sustained Yield" means the continuous periodic yield of forest products from managed timber stands under a long-term management plan consistent with the objective of maximizing the production of forest products while giving consideration to environmental values.

(e) "Long-term Industrial Timber Management Plan" (herein "TMP") means a management plan for industrial timberlands with the objective of management of timber and sustained yield of timber products for an ownership meeting the requirements of Section 4595.2.

(f) "Timber Stand" means a portion of an industrial timberland owner's entire ownership that has been, or can be, subjected to harvesting under a single timber harvest notice.

(g) "Timber Harvest Notice" means notice of timber harvest operations pursuant to an approved long-term industrial timber management plan that meets the requirements of Section 4595.5.

4595.2. (a) After January 1, 1994, no industrial timberland owner may harvest his/her own industrial timberland unless done pursuant to an approved TMP or a previously approved Timber Harvest Plan (THP), or under an emergency notice pursuant to Section 4592. In the event that a TMP is approved which includes lands included in a Timber Harvest Plan which has been previously approved but work on the THP has not been completed, work on the THP shall be completed as provided in this Chapter for completion of Timber Harvesting Plans. After completion of such work, the provisions of the TMP shall thereafter prevail. A separate TMP may be filed for any portion of the property owned by an industrial timberland owner. The TMP shall be prepared by a Registered Professional Forester (RPF). It shall be a public record and shall include all of the following information:

(1) Name and address of the industrial timberland owner and the timber owner if different from the industrial timberland owner.

(2) A description of the lands to be included in the TMP including:

(i) A current planimetric map showing plan boundaries and location of all proposed and existing logging truck roads.

(ii) Largest scale USGS quadrangle map available showing plan boundaries, watercourses, and contour intervals.

(iii) A description of the terrain, wildlife, plant life and other features of the area, and of nearby areas that might reasonably be expected to be impacted by activities in the TMP area.

(iv) A description of past timber harvesting activities in the plan area.

(v) The results of any archeological surveys conducted in the plan area.

(3) A statement of the forest management, wildlife management and sustained yield objectives to be achieved in the plan area.

(4) A description of planned harvesting activities, and the timber stands where such harvesting is expected to occur. This description should explain how the requirements of the Rules of the Board of Forestry (Board) applicable to timber harvesting activities at the time the TMP is filed are met and shall include all the following:

(i) A description of the silvicultural methods to be applied to such lands, the methods of regeneration to be used, and the types of logging systems to be used.

(ii) A description of the measures to be employed for fire prevention and control, erosion control, protection of water quality, and recognition of other resources identified in Section 4512 and 4513 of this Chapter.

(iii) A description of the methods to be employed for construction and reconstruction of roads necessary for the conduct of timber harvest operations anticipated within the TMP area.

(iv) Special provisions, if any, to protect any unique area, including any archeological sites, within the TMP area.

(5) A description and analysis of the direct and cumulative impacts, as defined by the rules of the Board, or 14 CCR §15355 if the Board has adopted no definition, reasonably expected to result from implementation of the TMP, including a discussion of alternatives and mitigation measures included in the plan to reduce or avoid such impacts and an explanation of why no additional mitigation measures or alternatives are necessary or feasible.

(6) A Wildlife Management Plan prepared by a wildlife biologist who is certified by the Wildlife Society as described in Article 7.7 of this Chapter.

(7) A certification by the RPF preparing the TMP that he or she or a designee has personally inspected the plan area.

(8) Any other information the Board requires in its rules to meet the requirements of this Article.

(b) It shall be the responsibility of the RPF who submitted the TMP, or his replacement, to determine the proper application of the rules of the Board in the contents of the plan and to monitor the adequacy of the plan pursuant to the Forest Practice Act and the rules of the Board and to revise the plan to meet changed or newly discovered conditions in order to protect resource values.

(c) Timber operations conducted under a TMP adopted pursuant to this Article, or conducted under a THP consistent with this article, shall not be subject to any requirements that would be imposed by Section 2, Article III or IV, of the Forest and Wildlife Protection Bond Act of 1990 filed January 12, 1990, or any other initiative measure adopted at the general election of November 1990. Section 2, Articles III and IV of the Forest and Wildlife Protection Bond Act of 1990 filed January 12, 1990 shall have no force or effect regarding the production or harvesting of privately owned timber on any timber land zoned TPZ pursuant to Government Code Section 51100 et seq. or timber owned by the state of California.

4595.3. (a) The Board shall adopt rules regarding the notice of receipt of the proposed TMP. The notice shall be given within two working days following receipt of the proposed TMP and shall be consistent with Horn v. County of Ventura, *24 Cal.3d 605, and all applicable laws. In adopting the rules, the Board shall take account of the extent of the administrative burden involved in giving the notice. The method of notice shall include, but not be limited to, mailed notice. The rules may require the person submitting the plan to provide the Department a list of the names and addresses of persons to whom the notice is to be mailed.*

(b) The Department shall provide notice of the filing of a TMP, to any person requesting that notification in writing.

(c) Upon receipt of the TMP, the Department shall place it, or a true copy thereof, in a file available for public inspection in the county in which timber operations are proposed under the plan, and, for the purpose of interdisciplinary review, shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, the county planning agency, and all other agencies having jurisdiction by law over natural resources affected by the plan. The Department shall invite, consider, and respond in writing to significant comments received from members of the public and from public agencies to which the plan has been transmitted and shall consult with those agencies at their request.

(d) Upon receipt of the TMP, the Department shall have ten (10) days to determine if the plan is in proper order for filing, and sixty (60) days from the date of filing or from the date of earliest seasonal access to the plan area, whichever is later, or longer if agreed to by the plan submitter, to review the plan to determine whether or not it is in conformance with this Article and the rules of the Board in effect at the time the plan is filed. When the plan application has been found not to be in proper order for filing, the Department shall so inform the plan submitter in writing with a written explanation of the reason(s) for its decision and of the plan submitter's right to a hearing before the Board.

(e) In conducting its review of the TMP, the Department shall take at least the following steps:

(1) The Department shall conduct a noticed public hearing to receive comments on the proposed TMP within 45 days after filing the plan.

(2) At least one inspection of the TMP area shall be conducted by the Department and representatives of any other state, local or federal agencies that have jurisdiction by law over natural resources that may be affected by the plan who choose to accompany the Department on the inspection. Other inspections may be made, as deemed necessary by the Department, at any time during the review period.

(f) Proceedings pursuant to this article shall be deemed to be in compliance with Public Resources Code §21080.5(d) and are hereby certified as exempt from the provisions of Chapter three (commencing with Section 21100) and Chapter four (commencing with Section 21150) and Section 21167 of the Public Resources Code. The rules adopted by the Board of Forestry to implement this Article shall be consistent with the requirements of §21080.5(d).

(g) If the Department determines that the proposed TMP conforms with this Article and the rules of the Board in existence at the time the plan was filed, it shall approve the plan. If the Department determines that the plan is not in conformance with the Rules of the Board and this Article, it shall return the plan to the submittee and state, in writing, reasons for such denial and advise the person submitting the plan of information or changes needed to bring the plan into conformance. If the Department does not act within the time prescribed by this section, or such longer period as may be mutually agreed upon by the Department and the person submitting the plan, the plan shall be deemed approved.

(h) The plan submitter may appeal denial of the TMP to the Board of Forestry within thirty (30) days of receiving notice of such denial and the Board will proceed to consider the appeal in the same manner as it considers appeal from denial of a timber harvest plan under Section 4582.7.

(i) The Director of the Department of Fish and Game or the Chairman of the State Water Resources Control Board may, subject to the same limitations and conditions specified in Section 4582.9(b), but not later than 10 days after approval of a TMP by the Department, appeal the approval or denial to the Board. At the time of filing an appeal with the Board, the person filing the appeal shall notify the Director and the plan submitter of the appeal, and no timber operations shall occur under the TMP until the final determination of the appeal by the Board. The Board will proceed to consider the appeal in the same manner as it considers appeals by these agencies pursuant to Section 4582.9 (c)

and (d). If the Board approves the plan, the Director of Fish and Game or the State Water Resources Control Board may seek judicial review of the decision pursuant to Section 4595.95.

(j) The TMP submitter or the industrial timberland owner may seek judicial review of the Board's denial of a TMP. The inquiry upon review shall extend only to whether there was an abuse of discretion by the Board in denying the plan. Abuse of discretion is established if the Board did not proceed in a manner required by law or if its decision is not supported by substantial evidence.

(k) All determinations to be made by the Department under this article shall be made by the Director or his designee.

4595.4. (a) The industrial timberland owner may submit a proposed amendment to the approved TMP and may not take any action which substantially deviates, as defined by the Board, from the approved plan until the amendment has been filed with the Department and the Department has determined that the amendment is in compliance with the rules of the Board and the provisions of this Article which were in effect at the time the amendment was filed, in accordance with the same procedures specified in Section 4595.3.

(b) The industrial timberland owner may take actions which do not substantially deviate from the approved plan and which do not cause any significant environmental impacts without the submittal of an amendment, but those actions shall be subsequently reported to the Department. The Board shall specify, by rule, those nonsubstantial deviations which may be taken. The Board shall specify the requirements for reporting those deviations.

(c) In the event of a change of ownership of the land covered by the TMP, the plan shall expire 180 days from the date of change of ownership unless the new industrial timberland owner notifies the Department in writing of the change of ownership and his or her assumption of the plan.

(d) The industrial timberland owner may cancel the TMP by submitting a written notice to the Department; however, no commercial timber operations may be conducted on the land without a valid and approved TMP after January 1, 1994, or a THP approved prior to January 1, 1994, or an emergency notice pursuant to Section 4392, Title 14, CCR. Provided, however, if a TMP submitted by an industrial timberland owner has been approved, but has not been implemented due to litigation, then the industrial timberland owner may continue to harvest the timberland subject to such TMP pursuant to the Timber Harvest Plan process provided for in the Z'berg-Nejedly Forest Practice Act until the litigation is resolved and harvesting can be conducted under the TMP. Once timber operations have commenced pursuant to a Timber Harvest Notice, cancellation is not effective on land covered by the Notice until a report of satisfactory completion has been issued in the same manner as provided for in Sections 4585, 4586, and 4587.

4595.5. An industrial timberland owner who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved TMP and who plans to harvest any of the timber thereon during a given year, shall file a Timber Harvest Notice with the Department in writing. A Notice shall be filed prior to the harvesting of any timber and shall be effective for a maximum of one year from the date of filing. If the person who files the Notice is not the owner of the timberland, the person filing the Notice shall notify the timberland owner by certified mail that the Notice has been submitted, and shall certify that mailing to the Department. The Notice shall be prepared by an RPF and shall be a public record. The Notice shall perform the functions of demonstrating that timber harvesting will be consistent with the TMP and of informing the Licensed Timber Operator how to conduct the harvesting operations. The Notice shall include all of the following information:

(a) The name and address of the timber landowner.

(b) The name and address of the timber owner if different from the timber landowner.

(c) The name and address of the timber operator.

(d) The name and address of the RPF preparing the Timber Harvest Notice.

(e) A description of the land within the TMP on which the harvest is proposed to be done.

(f) A statement that no archeological sites have been discovered in the harvest area since the approval of the TMP.

(g) A statement that no rare, threatened, or endangered plant or animal species has been discovered in the harvest area since the approval of the TMP.

(h) A statement that there have been no physical environmental changes in the harvest area that are so significant as to require any amendment of the TMP.

(i) Special provisions, if any, to protect any unique area within the area of timber operations.

(j) The expected dates of commencement and completion of timber operations during the year.

(k) A statement that the Notice conforms to the provisions of the approved TMP, including the wildlife management plan.

(l) Any other information the Board requires by rule to meet the requirements of its Rules and this Article.

4595.6. The Board, under exceptional circumstances of public need, and to protect against immediate, significant and long-term harm to the natural resources of the state, may require the application of specified rules to harvesting conducted pursuant to a Timber Harvest Notice, even though such rules are adopted subsequent to the filing of the Timber Harvest Notice. In such cases, the Board must adopt written findings of public need, and of the anticipated immediate, significant and long-term harm, that are supported by substantial evidence presented to the Board at a public hearing held to consider the proposed rules. Thereafter, all operations pursuant to the notice to which such specified rules may apply shall conform to such rules unless, prior to the adoption of the rules, substantial expenses or liabilities have been incurred in good faith reliance upon the rules previously in effect, and the adherence to such specified rules would not be feasible.

4595.65. The RPF who submitted a Timber Harvest Notice, or any other RPF employed by the timber owner or industrial timberland owner, shall submit to the Department such reports as the Board may require by rule establishing that harvesting has been conducted and restocking has been completed as required by the TMP.

4595.7. (a) The RPF who prepares the TMP or prepares the Timber Harvest Notice, or any other RPF who is employed by the timber owner or operator, shall report to the industrial timberland owner if there are deviations from the plan which, in the RPF's judgement, threaten the objectives of the TMP.

(b) If the Board finds that a RPF has made any material misstatements in Timber Harvest Notice, TMP or report under this article, the Board shall disciplinary action against the RPF as provided under Section 775. No penalties or enforcement provisions adopted by an initiative during the November 1990 election, other than those provided for herein or in law existing as of January 1, 1990, shall be applicable to RPFs, timberland owners, operators or others to enforce the requirements of Chapter 8, Part 2, Division 4 of the Public Resources Code or the requirements of an initiative adopted during November 1990 elections. Specifically, without limitations, the penalties and enforcement provisions contained in Section 2, Article 8 of the Forest and Wildlife Protection and Bond Act of 1990, filed January 12, 1990, shall be of no force and effect.

4595.8. Notwithstanding any other provision of this Chapter, if a RPF certifies by written declaration to the Department, on behalf of the timber owner or operator, that the Timber Harvest Notice conforms to, and meets the requirements of, the approved TMP under which it is filed, timber operations may commence immediately unless the Notice has been filed by mailing, in which case operations may commence three days after the notice has been mailed.

4595.9. If the Department determines that timber operations being conducted in an area subject to an approved TMP are not in compliance therewith, operations may be suspended by issuance of a Stop Order per Public Resources Code Sections 4602.5 and 4602.6 by the Department, and any further timber operations under the plan shall be suspended until any deficiencies are corrected or resolved.

4595.95. (a) Notwithstanding any other provision of law, judicial review of either approval of a TMP by the Department or the Board pursuant to this Article or of the adequacy of a Timber Harvest Notice submitted pursuant to Section 4595.5 shall be governed by the provisions of this section.

(b) Any action to attack, review, set aside, void or annul approval of a TMP or to review the adequacy of a Timber Harvest Notice shall be commenced within thirty (30) days after the date the TMP is approved or the Notice is submitted, as the case may be.

(c) No action may be brought to review approval of a TMP unless the alleged ground or grounds for the relief requested were presented to the Department in writing within fifty (50) days from the date the plan was filed.

(d) No person shall maintain an action to review approval of a TMP unless that person objected in writing to approval of the plan within fifty (50) days from the date the plan was filed.

(e) In any action to review approval of a TMP, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency approving the plan has not proceeded in a manner required by law or if the decision to approve the plan is not supported by substantial evidence.

(f) An action to review the adequacy of a Timber Harvest Notice shall be limited to the question of whether the notice complies with the requirements of Section 4595.5.

(g) If a court finds that approval of a TMP was not supported by substantial evidence or that the agency approving the plan did not proceed in a manner required by law, or that a Timber Harvest Notice had not met the requirements of Section 4595.5, the court shall enter an order for issuance of a peremptory writ of mandate specifying what action is necessary to bring approval of the plan or the Timber Harvest Notice into compliance with law. The court shall retain jurisdiction over the agency's proceedings by way of a return to the peremptory writ until the court has determined that the requirements of the peremptory writ have been met. Nothing in this section authorizes a court to direct any public agency to exercise its discretion in any particular way. The court's writ of mandate shall include one or more of the following:

(1) A mandate that the approving agency and any real parties in interest suspend all activity, pursuant to approval of the TMP or the Timber Harvest Notice, that could result in substantial change or alteration to the physical environment until such actions are taken as may be necessary to bring approval of the TMP or the Notice into compliance with requirements of this Article.

(2) A mandate that the approving agency take specific action as may be necessary to bring the TMP into compliance with the requirements of this Article.

(3) A mandate that any real party in interest take specific action as may be necessary to bring the Timber Harvest Notice into compliance with Section 4595.5.

(4) The Department shall initiate any investigation that may be appropriate under Section 4595.7(b).

TITLE SEVEN

Section 9.

Article 7.7 (commencing with §4596) is added to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 7.7. Wildlife Management Plan

4596. The people of the State of California find and declare:

(a) Management of forests in California can affect biological diversity and wildlife habitat in those areas where timber operations are undertaken. While private property rights must be respected and protected, conservation of biological diversity is a state goal. To accomplish this goal, TMPs must recognize the importance of maintaining native wildlife in California's forest lands for their inherent values to society and provide for diversity of habitat types, seral stages and special habitat components on industrial timber lands.

(b) Existing law requires the California Fish and Game Commission to establish a list of Endangered Species and a list of Threatened Species. In addition, the rules of the Board of Forestry provide for specific planning and

conduct of timber operations so as to maintain viable habitat for Species of Special Concern. Every TMP shall contain measures designed to assure protection of habitat for Threatened and Endangered Species and Species of Special Concern, as well as consideration of the habitat requirements of other game and non-game species of fish and wildlife.

4596.1. Every TMP as described in Section 4595.2 shall contain a Wildlife Management Plan prepared by a wildlife biologist, who is certified by the Wildlife Society, and prepared under the direction of the RPF responsible for the preparation of the TMP. Each Wildlife Management Plan shall provide for watercourse and lake protection zones as defined in Title 14 CCR 895.1 to serve as wildlife protection corridors.

4596.2. (a) The Board, after consulting with the Department of Fish and Game, shall adopt rules consistent with this Article, specifying the contents of a Wildlife Management Plan by not later than January 1, 1991. Until such rules are adopted the content of Wildlife Management Plans shall be governed by subparagraph (c) of this section.

(b) It shall be the goal of the Wildlife Management Plan to balance the needs for game and non-game species of wildlife and their habitat consistent with the objectives specified in Sections 4512 and 4513 and to provide all legally required protection for all species listed as Threatened or Endangered under the state and federal Endangered Species Acts, and to provide protection for Species of Special Concern as established by the rules of the Board.

(c) A wildlife management plan shall contain at least the following elements:

(1) During timber operations, timber operators shall not place, discharge, or dispose of in such a manner as to permit or pass into water courses, lakes, marshes, meadows, and other wet areas described in the California Code of Regulations Title 14, §916 et seq. substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to the beneficial uses of water.

(2) Vegetation, other than commercial species, bordering and covering meadows and wet areas shall be retained and protected during timber operations unless their removal is explained and justified in the long-term industrial timber management plan and approved by the Department.

(3) Soil within meadows and wet areas shall be protected to the maximum extent feasible.

(4) Trees cut within wildlife protection corridors, described as water course and lake protection zones in Title 14 CCR §916 et seq., shall be felled away from the water course by pulling or other mechanical methods if necessary, in order to protect the residual vegetation in the water course and lake protection zone. Exceptions may be proposed and used when approved by the director.

(5) Nesting trees, and other critical habitat, of species listed as Threatened or Endangered and Species of Special Concern, and an adequate buffer area for such trees and habitat, shall be protected during harvesting while fledging occurs.

(6) Standing and down dead timber that provides nesting or host cover for other species shall be left during harvest if leaving such material will not cause unreasonable risk of fire or accident or unreasonably curtail the timber producing capability of the area involved.

Section 10.

Article 7.8 (commencing with Section 4596.3) is added to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 7.8. Public Access

4596.3 To encourage private industrial and commercial timberland owners to provide public access in selected areas of managed forests and forest products facilities, and to make available to the public opportunities for recreation and education on such managed forestland and production sites, the people enact as follows:

An owner of any commercial or industrial managed forestland who receives consideration for doing so shall have no greater duty of care to any member of the public to whom it gives access to any demonstration forest, picnic area, campground, rest stop, wayside, production site, hunting or fishing area or other area for recreational or educational purposes than Section 846 of the California Civil Code requires when access is granted without consideration. All opportunities for access to private property described herein shall be at the discretion of the timberland or forest owner, and shall be subject to whatever terms, conditions, restrictions or prohibitions said landowner may establish.

Section 11.

Except as provided in this Act, Chapter 8 of Part 2 of Division 4 of the Public Resources Code shall not be modified by any initiatives on the November 1990 ballot and those provisions remain in full force and effect.

TITLE EIGHT
RESTRICTIONS ON EXPORTS OF CALIFORNIA LOGS

Section 12.

The people of the State of California find and declare:

It is essential to the long-term maintenance of a viable forest products industry in the State of California that commercial timberland owners and operators, as well as manufacturers of forest products, continue to participate in the national and global market place. However, in striving for the goal of a continuous and long-term sustained yield of timber from California forests to provide raw material for current market demands while insuring continued supply for the future, the people recognize that raw logs, prior to any processing or manufacturing, should not be harvested solely for export. Restricting this practice would contribute to the important economic and social objectives of providing employment and other benefits to Californians and all Americans over the long-term. Therefore, the people do hereby request Congress, which has authority over interstate and international commerce, to prohibit export of raw logs from California timber lands.

TITLE NINE

Section 13.

Division 5, Chapter 1, Article 1, Section 5006.17 of the Public Resources Code is added as follows:

5006.17. (a) In order to reach a balance between encouraging the production and harvesting of timber on privately owned timberlands and protecting virgin old growth redwood timber in California, and notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the State, a fee interest in the following four areas of privately owned timberlands that are zoned for the production and harvesting of timber in Humboldt County in Northern California, which are contiguous to existing state parks that contain virgin old growth redwood, containing 1618 acres, more or less.

(1) Keller Ranch: For addition to Pamplin Grove, a part of the Van Duzen Grizzley Creek State Park System, a total of approximately 343 acres, consisting of a portion of the Southwest quarter, West of the Van Duzen River in Section 8, Township 1 North, Range 2 East, Humboldt Base and Meridian; a portion of the Northeast quarter, West of the Van Duzen River in Section 8, Township 1 North, Range 2 East, Humboldt Base and Meridian; a portion of the Southeast quarter of the Northwest quarter, West of the Van Duzen River in Section 8, Township 1 North, Range 2 East, Humboldt Base and Meridian; The East half of the Southwest quarter of Section 8, Township 1 North, Range 2 East, Humboldt Base and Meridian; a portion of the Southwest quarter of Section 9, Township 1 North, Range 2 East, Humboldt Base and Meridian.

(2) Grizzley Creek: For addition to the Grizzley Creek Park on Van Duzen River, a total of approximately 135 acres, consisting of the Southeast quarter of the Southeast quarter and a portion of the Northeast quarter of the Southeast quarter of Section 11, Township 1 North, Range 2 East, Humboldt Base and Meridian; the Northeast quarter of the Southwest quarter and a portion of the West half of the Southwest quarter of Section 12, Township 1 North, Range 2 East, Humboldt Base and Meridian.

(3) Redcrest: South and West of the town of Redcrest: For addition to the Humboldt Redwoods State Park and the Avenue of the Giants, a total of approximately 1,031 acres, consisting of the Southwest quarter and a portion of the Northwest quarter South of Highway 101 and a portion of the Southeast quarter Southwest of Highway 101 in Section 10, Township 1 South, Range 2 East, Humboldt Base and Meridian; the North half of Section 15 West of Highway 101 and a portion of the Southwest quarter of Section 15 in Township 1 South, Range 2 East, Humboldt Base and Meridian; the Northeast quarter and a portion of the Southeast quarter of Section 16, Township 1 South, Range 2 East, Humboldt Base and Meridian.

(4) South Fork: For addition to Humboldt Redwoods State Park, for addition to Founders Grove at the confluence of the Main Eel and the South Fork of the Eel River, a total consisting of approximately 106 acres, consisting of a portion of the Northeast quarter of the Northwest quarter and the North half of the Northeast quarter West of the Eel River in Section 35, Township 1 South, Range 2 East, Humboldt Base and Meridian; a portion of the Northeast quarter of the Northeast quarter East of the Eel River in Section 35, Township 1 South, Range 2 East, Humboldt Base and Meridian.

(b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the property acquisition law (Part 11) commencing with Section 15850 (of Division 3 of Title 2 of the Government Code). These acquisitions must protect rights of way necessary for the landowners to economically operate their remaining property zoned for timber production and harvesting. Other privately owned timberlands in the redwood region of Northern California that are zoned for the production and harvesting of timber may not be acquired by the state for a period of 10 years without the agreement of the timberland owner.

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of or as an expansion to existing units of the State Parks System, and the property acquired shall be under the exclusive control of the officers administering the State Park System. The State Department Parks and Recreation shall carry out a program in the lands so acquired of planning, development, construction, maintenance, administration, and conservation of trails in areas for the recreational use by members of the public of the lands so acquired.

TITLE TEN

Section 14. Technical Matters.

(a) If any provision of this Act, or the application of that provision to any person or circumstances, is held invalid, the remainder of this Act, to the maximum extent it can be given effect, or the application of that provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end, the provisions of this Act are severable.

(b) This Act shall be liberally construed and applied in order to fully promote its underlying purposes, so that if more than one construction of a particular provision is possible, the one which more fully accomplishes the purposes of this Act shall be applicable.

(c) No provision of this Act shall be amended by the Legislature except to further its purposes by statute passed by each house by roll-call vote entered in the journal with two-thirds of each membership concurring, if at least 14 days prior to passage in each house the bill is in its final form, or unless by a statute that becomes effective only when approved by the electorate.

(d) All references to statutes or regulations in this act are to the text thereof in effect January 1, 1990, unless changes to those statutes or regulations further the purpose of this Act. In that event, this Act shall be interpreted to refer to the amended statute or regulation.

(e) Nothing in this Act shall diminish any legal obligation otherwise imposed by common law, statute or regulation, nor enlarge any defense in any action to

enforce that legal obligation. Any penalties or sanctions imposed under this Act shall be in addition to any penalties or sanctions otherwise prescribed by law.

(f) For purposes of this Act, "person" shall have the same meaning as in Section 26024 of the Health and Safety Code, and shall also include the United States, and its agencies and officials to the extent constitutionally permissible.

(g) Unless otherwise specifically provided in this Act, any action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision, including a failure to act, of any public agency, on the grounds of non-compliance with the provisions of this Act must be brought within 30 days of any such act or decision of any public agency.

(h) (1) No action may be brought pursuant to subsection (g) unless the alleged grounds for non-compliance with this Act were presented to the public agency orally or in writing by the person bringing the action.

(2) No person shall maintain an action or proceeding unless that person objected to the action of the public agency orally or in writing.

(3) This subsection does not apply to the Attorney General.

(4) This subsection does not apply when there was no public hearing or other opportunity for members of the public to raise objections prior to the action of the agency being challenged or when the public agency failed to give the notice required by law.

(i) In any action or proceeding to attack, review, set aside, void or annul a determination, finding or decision of a public agency on grounds of non-compliance with the provisions of this Act, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

(j) This initiative is inconsistent with, and intended as an alternative to specific provisions of the Environmental Protection Act of 1990, all of the terms of the Forest and Wildlife Protection and Bond Act of 1990, and all of the terms of any other initiative voted upon at the same election as this initiative which regulate registered professional foresters, timberland owners, timber owners, timber operators, or timber harvesting or which authorize or direct the condemnation of timberlands zoned for timber production and harvest or which modify the Z'berg-Nejedly Forest Practice Act or otherwise modify the authority or responsibility, or the method of appointment or composition, of the Board of Forestry or the Department of Forestry and Fire Protection. If this initiative and any such other inconsistent, alternative, or conflicting initiatives are passed by majorities voting thereon then the one with the most votes shall prevail.

1. The following specific provisions referred to in subparagraph (j) of the Environmental Protection Act of 1990 are inconsistent and in conflict with this initiative and shall have no force and effect:

(i) Section 17, Chapter 5, Articles 1 and 2, being amendments to the Public Resources Code Sections 4801, 4802, 4803;

(ii) Section 17, Chapter 6, being amendments to the Public Resources Code Sections 4804–4817;

(iii) Section 17, Chapter 7, being amendments to the Public Resources Code Sections 4818 and 4819;

2. The following provisions of the Forest and Wildlife Protection and Bo[illegible] of 1990 filed October 18, 1989, and revised November 6, 1989, are invalid and [illegible] have no force and effect:

(i) Sections 1 through 8.

3. The following provisions of the Forest and Wildlife Protection and Bond Act of 1990 filed January 12, 1990 are invalid and shall have no force and effect:

(i) Section 1 through 23.

(k) It is the intent of the people that the provisions of this initiative measure constitute an integrated and comprehensive set of statutory provisions and amendments designed to strike a balance between the goal of environmental protection, including diminishment of global warming, wildlife protection, and the protection of old growth redwood, and the goal of providing forestry products for California's population and economy. The people find that these provisions present a balanced reform package and it is their intent that additional, simultaneous provisions related to the same subject not be placed on government agencies, registered professional foresters, timberland owners, timber owners, timber operators or the public. Accordingly, it is the intent of the people to implement this initiative measure to the exclusion of the Environmental Protection Act of 1990, the Forest and Wildlife Protection and Bond Act of 1990 filed October 18, 1989, and revised November 6, 1989, the Forest and Wildlife Protection and Bond Act of 1990 filed January 12, 1990, or any other conflicting initiative measure which may be adopted at the same time on the same subject. To that end, if this initiative measure receives a higher number of votes than the Environmental Protection Act of 1990, the Forest and Wildlife Protection and Bond Act of 1990, or another conflicting measure passed at the same election, such other initiative measures, to the extent they affect in any manner, planning, management, or implementation of timber protection or harvesting, the composition or authority of the Board of Forestry or the authority of the Department of Forestry and Fire Protection or the acquisition by the state of forestland or modifies the Z'berg-Nejedly Forest Practice Act, shall be deemed to be inconsistent and in conflict with this initiative measure within the meaning of Section 10, Subdivision (b) of Article II of the California Constitution.

Proposition 139: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by repealing and adding sections thereto, and adds sections to the Government Code, the Penal Code, and the Revenue and Taxation Code; therefore, existing sections proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

PRISON INMATE LABOR INITIATIVE OF 1990

Section 1. This measure shall be known as the "Prison Inmate Labor Initiative of 1990."

Section 2. The people of the State of California find and declare that inmates who are confined in state prison or county jails should work as hard as the taxpayers who provide for their upkeep, and that those inmates may be required to perform work and services in order to do all of the following:

(a) Reimburse the State of California or counties for a portion of the costs associated with their incarceration.

(b) Provide restitution and compensation to the victims of crime.

(c) Encourage and maintain safety in prison and jail operations.

(d) Support their families to the extent possible.

(e) Learn skills which may be used upon their return to free society.

(f) Assist in their own rehabilitation in order to become responsible law-abiding citizens upon their release from state prison or local jail.

Section 3. Section 5 of Article XIV of the State Constitution is repealed.

~~SEC. 5. The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the state.~~

Section 4. Section 5 is added to Article XIV of the State Constitution to read:

SECTION 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.

(b) No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) Nothing in this section shall be interpreted as creating a right of in[illegible] to work.

Section 5. Article 1.5 is added to Chapter 5 of Title 1 of Part 3 of the Pe[illegible] Code to read:

Article 1.5.

Joint Venture Program

2717.1. Definitions.

(a) For the purposes of this section, joint venture program means a contract entered into between the Director of Corrections and any public entity, nonprofit or for profit entity, organization, or business for the purpose of employing inmate labor.

(b) Joint venture employer means any public entity, nonprofit or for profit entity, organization, or business which contracts with the Director of Corrections for the purpose of employing inmate labor.

2717.2. The Director of Corrections shall establish joint venture programs within state prison facilities to allow joint venture employers to employ inmates confined in the state prison system for the purpose of producing goods or services. While recognizing the constraints of operating within the prison system, such programs will be patterned after operations outside of prison so as to provide inmates with the skills and work habits necessary to become productive members of society upon their release from state prison.

2717.3. The Director of Corrections shall prescribe by rules and regulations provisions governing the operation and implementation of joint venture programs, which shall be in furtherance of the findings and declarations in the Prison Inmate Labor Initiative of 1990.

2717.4. There is hereby established within the Department of Corrections the Joint Venture Policy Advisory Board. The Joint Venture Policy Advisory Board shall consist of the Director of Corrections, who shall serve as chair, the Director of the Employment Development Department, and five members, to be appointed by the Governor, three of whom shall be public members, one of whom shall represent organized labor and one of whom shall represent industry. Five members shall constitute a quorum and a vote of the majority of the members in office shall be necessary for the transaction of the business of the board. Appointed members of the board shall be compensated at the rate of two hundred dollars ($200) for each day while on official business of the board and shall be reimbursed for necessary expenses. The initial terms of the members appointed by the Governor shall be for one year (one member), two years (two members), thre[illegible] years (one member), and four years (one member), as determined by th[illegible] Governor. After the initial term, all members shall serve for four years.

(b) The board shall advise the Director of Corrections of policies that fu[illegible] the purposes of the Prison Inmate Labor Initiative of 1990 to be considere[illegible] in the implementation of joint venture programs.

2717.5. In establishing joint venture contracts the Director of Corrections shall consider the impact on the working people of California and give priority consideration to inmate employment which will retain or reclaim jobs in

California, support emerging California industries, or create jobs for a deficient labor market.

2717.6. (a) No contract shall be executed with a joint venture employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990.

(b) Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same joint venture employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) The determination that a condition described in paragraph (b) above shall be made by the Director after notification by the union representing the workers on strike or subject to lockout. The limitation on work hours shall take effect 48 hours after receipt by the Director of written notice of the condition by the union.

2717.7. Notwithstanding Section 2812 of the Penal Code or any other provision of law which restricts the sale of inmate-provided services or inmate-manufactured goods, services performed and articles manufactured by joint venture programs may be sold to the public.

2717.8. The compensation of prisoners engaged in programs pursuant to contract between the Department of Corrections and joint venture employers for the purpose of conducting programs which use inmate labor shall be comparable to wages paid by the joint venture employer to non-inmate employees performing similar work for that employer. If the joint venture employer does not employ such non-inmate employees in similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. Such wages shall be subject to deductions, as determined by the Director of Corrections, which shall not, in the aggregate, exceed 80 percent of gross wages and shall be limited to the following:

(1) Federal, state, and local taxes.

(2) Reasonable charges for room and board, which shall be remitted to the Director of Corrections.

(3) Any lawful restitution fine or contributions to any fund established by law to compensate the victims of crime of not more than 20 percent, but not less than 5 percent, of gross wages, which shall be remitted to the Director of Corrections for disbursement.

(4) Allocations for support of family pursuant to state statute, court order, or agreement by the prisoner.

Section 6. Section 14672.16 is added to the Government Code to read:

14672.16. (a) Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections or the Department of the Youth Authority may let, in the best interest of the state, any real property located within the grounds of a facility of the Department of Corrections or the Department of the Youth Authority to a public or private entity for a period not to exceed 20 years for the purpose of conducting programs for the employment and training of prisoners or wards in institutions under the jurisdiction of the Department of Corrections or the Department of the Youth Authority.

(b) The lease may provide for the renewing of the lease for additional successive 10-year terms, but those additional terms shall not exceed three in number. Any lease of state property entered into pursuant to this section may be at less than market value when the Director of General Services determines it will serve a statewide public purpose.

Section 7. Section 17053.6 is added to the Revenue and Taxation Code to read:

17053.6. There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

Section 8. Section 23624 is added to the Revenue and Taxation Code to read:

23624. There shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to 10 percent of the amount of wages paid to each prisoner who is employed in a joint venture program established pursuant to Article 1.5 of Chapter 5 of Title 1 of Part 3 of the Penal Code, through agreement with the Director of Corrections.

Section 9. If any provision of this measure or the application thereof to any person or circumstances is held invalid or unconstitutional, that invalidity shall not effect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Section 10. The statutory provisions contained in this measure may not be amended by the Legislature except to further its purposes by statute passed in each house by roll call vote entered in the journal, two thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

Proposition 140: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure expressly amends the Constitution by amending and adding sections thereof; therefore, new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. This measure shall be known and may be cited as "The Political Reform Act of 1990."

SEC. 2. Section 1.5 is added to Article IV of the California Constitution, to read:

SEC. 1.5. The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative.

The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent.

To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served.

SEC. 3. Section 2 of Article IV of the California Constitution is amended to read:

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. *No Senator may serve more than 2 terms.*

The Assembly has a membership of 80 members elected for 2-year terms. *No member of the Assembly may serve more than 3 terms.*

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

SEC. 4. Section 4.5 is added to Article IV of the California Constitution, to read:

SEC. 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay only the employer's share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided.

SEC. 5. Section 7.5 is added to Article IV of the California Constitution, to read:

SEC. 7.5. In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars ($950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the state established pursuant to Article XIII B.

SEC. 6. Section 2 of Article V of the California Constitution is amended to read:

SEC. 2. The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding the Governor's election. The Governor may not hold other public office. *No Governor may serve more than 2 terms.*

SEC. 7. Section 11 of Article V of the California Constitution is amended to read:

SEC. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. *No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than 2 terms.*

SEC. 8. Section 2 of Article IX of the California Constitution is amended to read:

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election. *No Superintendent of Public Instruction may serve more than 2 terms.*

SEC. 9. Section 17 of Article XIII of the California Constitution is amended to read:

SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The state shall be divided into four Board of Equalization districts with the voters of each district electing one member. *No member may serve more than 2 terms.*

SEC. 10. Section 7 is added to Article XX of the California Constitution, to read:

SEC. 7. The limitations on the number of terms prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms to which persons are elected or appointed on or after November 6, 1990, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term. Those limitations shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the term is less than half of the full term.

SEC. 11. Section 11 (d) is added to Article VII of the California Constitution, to read:

SEC. 11. (a) The Legislators' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any state office for which membership in the Legislators' Retirement System was elective or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that office.

(b) The Judges' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, [illegible] entered for the first time any judicial office subject to the Judges' Retirement System or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the judicial office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that judicial office.

(c) The Legislature may define the terms used in this section.

(d) If any part of this measure or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.

Ballot Pamphlet Survey

Instructions: We need your help. By giving us your ideas, you can help make the ballot pamphlet better for everybody. To complete these questions, please *circle* the letter next to the answer that you select. On some questions, you will be asked to choose more than one answer.

Your answers are *completely anonymous* and will be compiled with the responses of other Californians; they will not be reported individually. To protect your confidentiality, please do not sign your name to this survey.

1. In statewide elections in California (such as those for Governor and U.S. President):
   a. I usually vote in *both* the June and November elections.
   b. I usually vote *only* in the *June* primary elections.
   c. I usually vote *only* in the *November* general elections.
   d. I rarely or never vote in either the June or November elections.
   e. I am voting in my first statewide election this November.
2. When I vote:
   a. I vote on most or all of the ballot propositions.
   b. I vote on some of the ballot propositions.
   c. I vote on just a few of the ballot propositions.
   d. I vote on hardly any or none of the ballot propositions.
3. Before I vote, I read at least some of the ballot pamphlet:
   a. Always.
   b. Most of the time.
   c. Occasionally.
   d. Rarely or never.
4. When I read the ballot pamphlet, I usually:
   a. Read just about everything about every proposition, including the legal text of the propositions which appears in small print.
   b. Read just about everything about every proposition, *except* the legal text.
   c. Read something about all or most of the propositions.
   d. Read something about only those propositions which most interest me.
5. When I read the ballot pamphlet, I usually read it:
   a. On election day before I go to vote.
   b. On the day or evening immediately before election day.
   c. During the week before election day.
   d. Shortly after I receive the pamphlet in the mail.
   e. I usually vote by absentee ballot, so I read the pamphlet before I mail in my vote.
6. In terms of helping me decide how to vote, I usually find the ballot pamphlet to be:
   a. Very helpful.
   b. Somewhat helpful.
   c. Not very helpful.
7. When I read about a proposition in the ballot pamphlet, I usually read (*circle as many as apply*):
   a. The official title and summary which appears at the beginning of each proposition.
   b. The analysis by the Legislative Analyst.
   c. The arguments "in favor" and "against" prepared by the supporters and opponents of each proposition.
   d. The rebuttals prepared by each side.
   e. The legal text of the proposition itself.
8. If I had to pick *only one part* of the ballot pamphlet to help me decide how to vote on the propositions, I would pick (*circle only one*):
   a. The official title and summary which appears at the beginning of each proposition.
   b. The analysis by the Legislative Analyst.
   c. The arguments "in favor" and "against" prepared by the supporters and opponents of each proposition.
   d. The rebuttals prepared by each side.
   e. The legal text of the proposition itself.
9. I think that the ballot pamphlet would be just as helpful even if it did *not* contain (*circle as many as apply*):
   a. The official title and summary which appears at the beginning of each proposition.
   b. The analysis by the Legislative Analyst.
   c. The arguments "in favor" and "against" prepared by the supporters and opponents of each proposition.
   d. The rebuttals prepared by each side.
   e. The legal text of the proposition itself.
   f. I think the pamphlet is fine as it is.
10. Besides the information listed above in questions 8 and 9, I usually use the following to help me decide how to vote (*circle as many as apply*):
    a. The names of the persons (or organizations) who signed the arguments and rebuttals for and against each proposition.
    b. The estimate of the "fiscal effect" of each proposition prepared by the Legislative Analyst.
    c. The final vote cast by the Assembly and Senate on propositions placed on the ballot by the Legislature.
    d. The overview which discusses the impact which bond measures on the ballot would have on the state's current bond debt level.
    e. None of the above.
11. I don't use the ballot pamphlet more because (*circle as many as apply*):
    a. I don't have the time to read it.
    b. The propositions are too complicated for me to understand.
    c. The information in the pamphlet doesn't help me to understand the propositions any better.
    d. I get enough information about the propositions from other sources (such as friends and relatives, television, etc.).
    e. I don't believe much of the information in the pamphlet anyway.

f. I'm not very interested in the propositions.
g. I'm not very interested in politics in general.
h. Other reason (______________________).

12. I might be more likely to use the ballot pamphlet if it (*circle as many as apply*):
    a. Could be made shorter.
    b. Had larger, more readable type.
    c. Explained clearly what my vote "for" or "against" each proposition will mean.
    d. Told me how to vote by absentee ballot or who to contact about my polling place.
    e. Arrived sooner so I had more time to read it.
    f. Also contain information about the candidates.
    g. Other (______________________).
13. In deciding how to vote on ballot propositions, I usually use the following sources of information (*circle as many as apply*):
    a. Ballot pamphlet.
    b. TV or radio campaign advertisements.
    c. Talking with relatives, friends, or co-workers.
    d. TV news.
    e. TV or radio talk shows.
    f. Newspaper stories about the propositions.
    g. Newspaper editorials/recommendations/endorsements.
    h. Campaign information received in the mail.
    i. Recommendations from political officeholders, candidates, or political parties.
14. If I had to pick the *three most helpful* sources of information about the ballot propositions, they would be (*circle up to three choices*):
    a. Ballot pamphlet.
    b. TV or radio campaign advertisements.
    c. Talking with relatives, friends, or co-workers.
    d. TV news.
    e. TV or radio talk shows.
    f. Newspaper stories about the propositions.
    g. Newspaper editorials/recommendations/endorsements.
    h. Campaign information received in the mail.
    i. Recommendations from political officeholders, candidates, or political parties.
15. I would probably learn more about the ballot propositions if (*circle all that apply*):
    a. The ballot pamphlet information was recorded on a free cassette tape that I could listen to in my home, car, or place of employment.
    b. The ballot pamphlet information was recorded on a free videotape that I could watch.
    c. The propositions were discussed on a special public television program that I could watch.
    d. None of the above.
16. *Education* (Circle the highest level of school you have completed):
    a. 6th grade or below
    b. 8th grade
    c. High school graduate
    d. Some college
    e. Bachelor's degree
    f. Graduate or professional degree
17. *Party Registration* (Circle your current voter registration):
    a. American Independent
    b. Democrat
    c. Libertarian
    d. Peace and Freedom
    e. Republican
    f. Other Party
    g. Declined to State
18. *Age* (Circle the box which includes your age):
    a. 18–29 years
    b. 30–44 years
    c. 45–54 years
    d. 55–64 years
    e. 65 or more years
19. *Race/Ethnicity* (Circle the group with which you most closely identify):
    a. American Indian
    b. Asian/Pacific Islander
    c. Black
    d. Filipino
    e. Hispanic
    f. White
20. *Sex:*
    a. Female
    b. Male
21. Is there additional information which would make the ballot pamphlet more helpful to you? If so, what is it?

____

____

(Enclose additional sheets if necessary)

22. How would you change the ballot pamphlet (format, contents, etc.) to make it more helpful to you?

____

____

(Enclose additional sheets if necessary)

THANK YOU FOR YOUR ASSISTANCE! PLEASE DETACH AND MAIL YOUR COMPLETED QUESTIONNAIRE AS SOON AS POSSIBLE TO:

STATE OF CALIFORNIA
BALLOT PAMPHLET SURVEY
P.O. BOX 720838
SACRAMENTO, CA 94235-0838

Ballot Statements—Candidates for Governor

Pete Wilson
Republican Party

Assemblyman Mayor U.S. Senator

PERFORMANCE—NOT PROMISES

Management

- Balanced 11 city budgets without raising taxes.
- Authored spending limit that became model for California.
- Won "Watchdog of Treasury" awards each year in Senate.
- For "Taxpayers Right to Vote" initiative.
- Endorsed by most California taxpayer groups.

Environment

- Authored California's first coastal protection bill, before today's environmental movement.
- First big city mayor in America to use growth management.
- Built California's first modern light rail system—on time, under budget.
- Authored historic legislation saving 1.8 million acres of wilderness.
- Received highest rating by League of Conservation Voters on clean air, clean water, coastal protection, growth management.

Crime

- Authored federal death penalty for drug kingpins.
- Authored important components of federal anti-crime bill.
- Chaired "Crime Victim's Initiative."
- Chaired "Speedy Trial Initiative."
- Leading opponent of Rose Bird.
- Endorsed by most all law enforcement organizations—police chiefs, police unions, and most district attorneys and sheriffs.

Education

- Won editorial and teacher praise for groundbreaking program to:
  - Assure prenatal care for all mothers.
  - Give parents freedom to choose schools.
  - Expand preschool education.
  - Create mentor and motivation programs.
  - Make schools safe.

Ethics

- Authored America's toughest campaign reform law in San Diego, banning PACs, special interests.

Maria Elizabeth Munoz
California Peace and Freedom Party

The Peace and Freedom Party is California's only pro-socialist, ballot status, independent party. It is the fastest growing party in California in registration because African-American, Latino, Native American, Asian, lesbian and gay, working class communities have embraced it with open arms.

I am proud to be a builder of Peace and Freedom Party which has chosen working class democracy and socialism over a decaying two party system. We are determined to see the Peace and Freedom Party become a major party in California to be used as an instrument in the struggle for social and economic justice for all of our people.

The fight to rebuild the California Peace and Freedom Party is part of the international movement for democracy that is being waged by our sisters and brothers from El Salvador to Haiti, Zaire to the Philippines. We urge you to join us.

For more information contact the Munoz for Governor Campaign at 1870 N. Vermont Avenue, #505, Los Angeles, California 90027, 213-664-6117 or the Peace and Freedom Party at 213-PFP-1998.

Dianne Feinstein
Democratic Party

alifornia needs change. What's missing in state government is ımon sense and the leadership to get the job done.

I'll bring to the governorship the experience and vision gained as mayor of a large, complex city. I balanced nine budgets in nine years and helped lead my city to an economic boom. Police were added and crime dropped 20 percent.

Affordable family housing was built, and so was a vast sewer system to clean up San Francisco Bay. The cable car system was restored. AIDS victims were treated, and the homeless sheltered. City management was streamlined and bureaucratic waste eliminated. Growth was controlled with common sense planning that created jobs and provided for expanded public transit and for quality day care.

As Governor, I'll fight to protect our environment, to stop the epidemic of crime and drugs and to bring rampant, runaway growth under control.

I'll give our schools and our teachers the support they need.

I support the death penalty and I am unequivocally pro choice.

Together, we can make a better future for all Californians.

For more information please contact:

Dianne Feinstein for Governor
3540 Wilshire Blvd., Suite 414
Los Angeles, CA 90010
213-382-1990

Dennis Thompson
Libertarian Party

Freedom is the issue. Can you spend your money better than the bureaucrats? Can you lead your life without direction from the bureaucrats? All we have and all we need is our Constitution, the Common Law, and good men and women like yourselves to stand for freedom, justice, and responsibility. Government: just enough to secure our rights of life, liberty, and property; a referee not a participant.

"Crime: do the crime, do the time, and PAY the victim; the capital criminal must FOREVER support the victim's family."

"Citizens Must Veto BAD LAW: 'The jury has the right to judge both the law as well as the fact.' John Jay, 1st Chief Justice, U.S. Supreme Court."

"Drugs: drug abuse is BAD but prohibition is BAD LAW."

"Abortion: can't use tax monies or coercive powers of government to enforce beliefs so divergently held."

"Guns: support the Second Amendment."

"Environment: diverse privatization with full liability of the Common Law."

"Education, Health, and Welfare: tax credits for freedom of choice and charity."

"Taxes: less and Less and LESS . . ."

Un amigo de libertad, es un amigo de mi: any friend of freedom, is a friend of mine. For more Libertarian information call 800-637-1776.

Jerome (Jerry) McCready
American Independent Party

Your vote can make a difference on election day!

Like you, I am not a professional politician, but a citizen concerned about crime, drug problems, pollution, water shortages, and traffic congestion. I believe the state budget can be balanced without more taxes or cuts in needed support services and COLAs. I support the death penalty as a deterrent to violent crime, full accountability by ɔliticians for use of your tax dollars, rooting out corruption, and ending of abortion as a form of birth control.

upport a limit on the number of terms of elected politicians.

or 17 years I have been employed by a large apartment house company, for which I am maintenance supervisor. In my work, I oversee millions of dollars of apartment complexes and equipment. I am a licensed minister and ordained deacon in my local Baptist church.

When elected, I cannot promise perfection, but I do promise to be honest and just in my dealings with you, your needs, and your tax dollars. I believe I can do much to restore faith in state government.

For more information, contact me at 10997 Seymour, Castroville, CA 95012: Telephone (408) 833-2644.

Your support is appreciated.

The order of the statements was determined by lot.

Political Party Statements of Purpose

Libertarian Party

The Libertarian view of the proper role of government is best expressed by the Declaration of Independence.

For 200 years America's Libertarian Heritage of ideas, values, and principles were used by people of good will to build this great nation.

Politicians of the Democratic and Republican Parties have led us away from the principles of individual liberty and personal responsibility that are the only sound foundations of a just, humane society.

The growth of government to its current size hurts everyone. We and our children must pay—and keep paying—for a government we are told we want.

Do you want to be *identified, counted, numbered, taxed, licensed, registered, regulated, told what to do and what not to do*—by politicians no wiser than yourself?

If so, vote for the candidates of the other parties—any will do.

If not, vote for Libertarian candidates.

Send new people, armed with the ideals of the American Revolution, to Sacramento and Washington prepared to Restore the American Dream.

We won't just promise, we *will* cut back big government—so you can stop paying for bureaucrats and politicians and start paying for whatever you choose.

For more information, call us at 1-800-637-1776.

GAIL LIGHTFOOT, *State Chair*

Democratic Party

Dear Citizen:

Please consider voting with the California Democratic Party—the Party which believes in giving every person a decent break in life.

We are Democrats because we care about:

Children—Helping our kids grow and learn through early childhood education, teenage jobs, affordable college education, and programs like the California Conservation Corps.

California's Environment—Protecting our coast, our ocean, our streams, our forests, and our air.

Freedom—Uncompromising defense of individual freedom: a woman's right to choose, deep respect for our diversity, and protection of each person's privacy.

Quality of Life—Health insurance available for all, housing at a price people can afford, and preventing crime instead of just building prisons.

Economic Justice—Turning around ten years of Republican favoritism for the wealthy at the expense of everyone else, strengthening trade unions, and providing job training to all who need it.

Bold Programs—Investing in high speed trains, space exploration, computers in schools, clean energy, and other innovative technologies.

I urge you to make your voice heard by voting, and also by participating in the Democratic Party organization in your community. Please call us at 415/896-5503 or 213/469-2799.

EDMUND G. BROWN JR., *Chairman*

Republican Party

As the nation enjoys a continued era of unprecedented prominence, it is clear the application of Republican policies and principles has reaped untold benefits for the nation and the world.

The Republican Party has dedicated itself to strengthening the nation's economy, and providing the social stability that comes with strong, decisive leadership.

The Republican Party supports freedom for the individual at home, while calling upon the world to reject tyranny and accept democracy. As freedom rings throughout the globe, there is no doubt that the Republican philosophy of "peace through strength" that has resulted in the expansion of democracy to Eastern Europe, Central America and around the world.

The Republican Party is dedicated to equality and fairness for all Americans, and rejects the quotas and set-asides that discriminate against all individuals regardless of race or gender.

The Republican Party is also dedicated to a lawful society, and believes that leaders must have the courage to ensure public safety and maintain public order. And Republicans believe that both criminals *and* victims must be guaranteed rights under the law.

The Republican message of hope, opportunity and prosperity: a message that will successfully lead our nation into the 21st century.

American Independent Party

Something is very wrong in government and with the major party politicians who claim to represent us. These politicians, who allowed the Savings and Loan scandal to occur, who continue to plunge our nation ever deeper into debt, who insist on raising our taxes to pay for their financial irresponsibility, who continue to send our tax money overseas as "foreign aid," and who still have the nerve to raise their own salaries don't care one bit about you and the needs of your family.

It's time for new leadership!

The American Independent Party represents the common sense thinking of the American people:

- HONEST, REPRESENTATIVE GOVERNMENT!
- NO MORE "SPECIAL INTEREST" POLITICS!
- RESPONSIBLE GOVERNMENT THAT STAYS OUT OF DEBT!
- SAFE STREETS AND NEIGHBORHOODS!
- TAX RELIEF FOR ALL AMERICANS!
- AN END TO FOREIGN AID—LET'S TAKE CARE OF AMERICA FIRST!
- A HALT TO ILLEGAL IMMIGRATION!
- PROTECTION OF RIGHTS AND BENEFITS FOR VETERANS AND SENIOR CITIZENS!
- EFFECTIVE WATER AND ENERGY POLICIES!
- RESPECT FOR LIFE!

Your values and common sense views and the issues are still represented in the political arena by the American Independent Party!

For further information please call (213) 650-9691 or write to American Independent Party, P.O. Box 691831, Los Angeles, CA 90069.

Peace & Freedom Party

Born 22 years ago, out of the struggles for civil rights and against the war in Vietnam, Peace & Freedom Party today has expanded those ideals to include:

- end the arms race, both nuclear and conventional
- withdraw U.S. troops and weapons from other countries
- conversion from a military to a peace-oriented economy
- socially useful jobs at union pay levels for all
- guaranteed dignified income for those who cannot work
- full education and employment rights for the disabled
- end discrimination based on race, sex, sexual preference, age or disability
- full rights of citizenship for undocumented workers
- equal pay for equal work and for work of comparable worth
- a 30-hour work week at 40 hours' pay
- social ownership and democratic management of industry and natural resources
- restore and protect clean air, water, land and ecosystems
- free, high-quality comprehensive health care for all people; free birth control upon request, including abortion; no forced sterilizations
- massive development of free public transportation
- decent, secure housing affordable for all people
- defend and extend liberties guaranteed in the Bill of Rights, and
- democratic elections through proportional representation.

For more information, call (408) 248-3225 or (213) PFP-1998 or write to P.O. Box 2325, Aptos, CA 95001.

MAUREEN SMITH, *State Chair*

The order of the statements was determined by lot.

The polls are open statewide from 7 a.m. until 8 p.m. on election day, November 6, 1990.

To vote by absentee ballot, send your application or a letter including your name, address to which you want your ballot sent, the date of the election, and your full signature to your county elections official before October 30, 1990. A blank application appears on the back cover of the sample ballot your county election official will mail to you by October 27, 1990.

Secretary of State
1230 J Street
SACRAMENTO, CA 95814

BULK RATE
U.S.
POSTAGE
PAID
Secretary of
State

ELECTION MATERIAL

Important Notice to Voters

Information regarding measures adopted by the Legislature after June 28, 1990, will be included in a supplemental ballot pamphlet that will be mailed to you or will be printed in newspapers throughout California. You can also obtain one from your county elections office or by calling 1-800-345-VOTE.

IMPORTANT NOTICE

The State produces a cassette-recorded version of this ballot pamphlet. These tape recordings are available from most public libraries. If you have a family member or friend who is *visually impaired*, please inform him or her of this service. Cassettes can be obtained by calling your local public library, county elections official, or toll free 1-800-345-VOTE.

For *hearing and speech impaired only* call toll free 1-800-833-8683.

In an effort to reduce election costs, the State Legislature has authorized the State and counties having this capability to mail only one ballot pamphlet to addresses where more than one voter with the same surname resides. If you wish additional copies, you may obtain them by calling or writing to your county elections official.