

1990

MARINE RESOURCES. INITIATIVE CONSTITUTIONAL AMENDMENT

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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,

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

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 fishing 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

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 ironmental 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.

ll 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

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.

Calendar Year	Fee
1991	\$250
1992	500
1993	1,000

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:

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 7149.1 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, 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.*