ASSEMBLY BILL No. 1023

Introduced by Assembly Member Wagner

February 18, 2011

An act to amend Sections 114, 809, 901, 3501, 3769.3, 4207, 6140.38, 6322.1, 7056, 7065, 7068.1, 7071, 7155, 8030.4, 19164, 19481.5, 19501, 19532.2, 19604.5, 19605.73, 19614.5, 23358.2, 23368.1, 23378.1, 25608, and 25658 of, and to repeal Sections 6731.1, 6731.2, 8726.1, and 8761.1 of, the Business and Professions Code, to amend Sections 798.23.5, 799.1, 1195, and 3344.1 of the Civil Code, to amend Sections 170.9, 630.01, 630.08, 877, 1010.6, and 1094.5 of the Code of Civil Procedure, to amend Sections 10400, 10404, 14501, 14502, and 14504 of, and to amend the heading of Part 9 (commencing with Section 10400) of Division 2 of Title 1 of, the Corporations Code, to amend Sections 1630, 12001.6, 17250.30, 37222, 41203, 41204, 41320.1, 41326, 41500, 44237, 45330, 51223.3, 51913, 66152, 66739.6, 67365, 68074, 89090, 92630, and 99221.5 of, and to repeal Sections 37222.10, 37222.11, 37222.12, 37222.13, and 37222.14 of, the Education Code, to amend Sections 332.5, 337, 2151, 3103.5, 6950, 7110, 8002.5, 8121, 10735, 12108, 13207, and 13208 of the Elections Code, to amend Section 1390 of the Evidence Code, to amend Sections 4326, 5616, and 6228 of the Family Code, to amend Sections 1805, 1822, 14315, 17345.1, 22349.1, 22352, and 22355 of the Financial Code, to amend Sections 2250, 2942, and 6612 of the Fish and Game Code, to amend Sections 481, 11504, 13184, 79691, and 79702 of the Food and Agricultural Code, to amend Sections 831.7, 901, 912.5, 935.9, 3254.5, 6585, 7513.87, 7514, 11019.5, 12517, 12627, 14661.1, 15439, 19829.7, 20037.14, 21369.2, 22874.1, 56853.6, 63049.67, 66484, 72011, 76000.10, 100521 of, to repeal Sections 7480 and 11544 of, to repeal the heading of Article 10 (commencing with former Section 58300) of

Chapter 1 of Division 1 of Title 6 of, and to amend and renumber Sections 7514 and 18929.96 of, the Government Code, to amend Section 1150 of the Harbors and Navigation Code, to amend Sections 1357.51, 1365, 1367.002, 1385.01, 1399.834, 1399.835, 1506, 1777, 1788, 1793.90, 1797.172, 1797.217, 8016, 11364, 16500, 25214.2, 25214.3, 25250.50, 25250.54, 25250.56, 25996, 33331.4, 33334.25, 33420.1, 33684, 41999, 44272.3, 44559.11, 50843.5, 51058.5, 102247, 103605, 103625, 115113, 120335, 120955, 121025, and 124982 of the Health and Safety Code, to amend Sections 557.5, 787.1, 1063.75, 10112.2, 10112.3, 10112.4, 10113.95, 10120.3, 10181, 10713, 10959, 10960, 12389, and 12739.53 of the Insurance Code, to amend Sections 1509, 1695, and 1771.3 of the Labor Code, to amend Section 987.58 of the Military and Veterans Code, to amend Sections 166, 171d, 326.3, 330.1, 381, 597y, 602, 626.95, 647.7, 653.56, 829.5, 830.8, 833.5, 903.4, 1201.3, 1203.066, 4852.03, 4852.17, 4854, 5023.2, 6030, 6228, 11180, 12022, 12022.5, 12022.7, 12022.85, 16880, 25105, 25650, 26020, 26175, 29010, 29065, 29115, 29142, 29510, 29615, 29855, 30105, 31315, 31910, and 32105 of, and to repeal Section 594 of, the Penal Code, to amend Sections 16062 and 21355 of the Probate Code, to amend Sections 2203, 6802, 6804, 6808, 10295.2, 20133, and 20193 of, and to amend the heading of Article 32 (commencing with Section 20520) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code, to amend Sections 667, 4186, 4512.5, 4590, 5073.5, 6308, 6362, 7555, 14574, 29735, 32330, 41800, 44820, and 71560 of the Public Resources Code, to amend Sections 345.5, 2827, 2851, 8381, and 100351 of the Public Utilities Code, to amend Sections 69.5, 7104, 17561, 18639, 19141, 19191, 19192, 19194, 23153, 23663, 23685, 24422, and 24875 of, and to repeal Section 24875.5 of, the Revenue and Taxation Code, to amend Sections 143, 182.2, and 1188 of, and repeal Sections 5898.15 and 5898.23 of, the Streets and Highways Code, to amend Sections 1088.5, 1269, 1269.1, 1755, 1757, 3011, 3701, and 15002 of the Unemployment Insurance Code, to amend Sections 5007, 11205.4, 12509, 12804.9, 12804.11, 13352, 13557, 29004, 34515, 40305.5, and 41501 of the Vehicle Code, to amend Sections 1126, 12986, 13385, 85031, 85034, and 85230 of the Water Code, to amend Sections 366.24, 4360, 4695.2, 5778, 10850.4, 11327.5, 11453, 12201, 12301.06, 12305.87, 14043.1, 14132.275, 14165.50, 14166.20, 14167.352, 14167.354, 14182, 14182.1, 15657.5, 15910, 15910.2, 15911, 18293, 18951, and 18987.7 of the Welfare and Institutions Code, to amend Section 2 of Chapter 166 of the Statutes of 2009, to amend

Section 1 of Chapter 191 of the Statutes of 2010, to amend Section 2 of Chapter 251 of the Statutes of 2010, to amend Section 1 of Chapter 321 of the Statutes of 2010, to amend Section 2 of Chapter 377 of the Statutes of 2010, to amend Section 3 of Chapter 431 of the Statutes of 2010, to amend Section 2 of Chapter 716 of the Statutes of 2010, and to amend Section 173 of Chapter 717 of the Statutes of 2010, relating to the maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1023, as introduced, Wagner. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

SECTION 1. Section 114 of the Business and Professions Code is amended to read:

114. (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department~~,~~ whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces, may, upon application, reinstate his or her license or registration without examination or penalty~~:~~*;* provided~~,~~ *that all of the following requirements are satisfied:*

(1) His or her license or registration was valid at the time he or she entered the California National Guard or the United States Armed Forces.

(2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.

(3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether

still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.

(b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.

(c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, then the licensing agency may require the applicant to pass an examination.

(d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which he or she is licensed or registered shall be required to maintain his or her license in good standing even though he or she is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which he or she is prevented from practicing his or her profession or vocation shall be excluded from said period of one year.

SEC. 2. Section 809 of the Business and Professions Code is amended to read:

809. (a) The Legislature hereby finds and declares the following:

(1) In 1986, Congress enacted the Health Care Quality Improvement Act of 1986 (42 U.S.C. Sec. 11101 et seq.), to encourage physicians to engage in effective professional peer review, but giving each state the opportunity to "opt-out" of some of the provisions of the federal act.

(2) Because of deficiencies in the federal act and the possible adverse interpretations by the courts of the federal act, it is preferable for California to "opt-out" of the federal act and design its own peer review system.

(3) Peer review, fairly conducted, is essential to preserving the highest standards of medical practice.

(4) Peer review that is not conducted fairly results in harm to both patients and healing arts practitioners by limiting access to care.

(5) Peer review, fairly conducted, will aid the appropriate state licensing boards in their responsibility to regulate and discipline errant healing arts practitioners.

(6) To protect the health and welfare of the people of California, it is the policy of the State of California to exclude, through the peer review mechanism as provided for by California law, those healing arts practitioners who provide substandard care or who engage in professional misconduct, regardless of the effect of that exclusion on competition.

(7) It is the intent of the Legislature that peer review of professional health care services be done efficiently, on an ongoing basis, and with an emphasis on early detection of potential quality problems and resolutions through informal educational interventions.

(8) Sections 809 to 809.8, inclusive, shall not affect the respective responsibilities of the organized medical staff or the governing body of an acute care hospital with respect to peer review in the acute care hospital setting. It is the intent of the Legislature that written provisions implementing Sections 809 to 809.8, inclusive, in the acute care hospital setting shall be included in medical staff bylaws that shall be adopted by a vote of the members of the organized medical staff and shall be subject to governing body approval, which approval shall not be withheld unreasonably.

(9) (A) The Legislature thus finds and declares that the laws of this state pertaining to the peer review of healing arts practitioners shall apply in lieu of Section 11101 and following of Title 42 of the United States Code, because the laws of this state provide a more careful articulation of the protections for both those undertaking peer review activity and those subject to review, and better integrate public and private systems of peer review. Therefore, California exercises its right to opt out of specified provisions of the Health Care Quality Improvement Act *of 1986* relating to professional review actions, pursuant to Section 11111(c)(2)(B) of Title 42 of the United States Code. This election shall not affect the availability of any immunity under California law.

(B) The Legislature further declares that it is not the intent or purpose of Sections 809 to 809.8, inclusive, to opt out of any

mandatory national data bank established pursuant to Section 11131 and following of Title 42 of the United States Code.

(b) For the purpose of this section and Sections 809.1 to 809.8, inclusive, "healing arts practitioner" or "licentiate" means a physician and surgeon, podiatrist, clinical psychologist, marriage and family therapist, clinical social worker, or dentist; and "peer review body" means a peer review body as specified in paragraph (1) of subdivision (a) of Section 805, and includes any designee of the peer review body.

SEC. 3. Section 901 of the Business and Professions Code is amended to read:

901. (a) For purposes of this section, the following provisions apply:

(1) "Board" means the applicable healing arts board, under this division or an initiative act referred to in this division, responsible for the licensure or regulation in this state of the respective health care practitioners.

(2) "Health care practitioner" means any person who engages in acts that are subject to licensure or regulation under this division or under any initiative act referred to in this division.

(3) "Sponsored event" means an event, not to exceed 10 calendar days, administered by either a sponsoring entity or a local government, or both, through which health care is provided to the public without compensation to the health care practitioner.

(4) "Sponsoring entity" means a nonprofit organization organized pursuant to Section 501(c)(3) of the Internal Revenue Code or a community-based organization.

(5) "Uninsured or underinsured person" means a person who does not have health care coverage, including private coverage or coverage through a program funded in whole or in part by a governmental entity, or a person who has health care coverage, but the coverage is not adequate to obtain those health care services offered by the health care practitioner under this section.

(b) A health care practitioner licensed or certified in good standing in another state, district, or territory of the United States who offers or provides health care services for which he or she is licensed or certified is exempt from the requirement for licensure if all of the following requirements are met:

(1) Prior to providing those services, he or she *does all of the following*:

(A) Obtains authorization from the board to participate in the sponsored event after submitting to the board a copy of his or her valid license or certificate from each state in which he or she holds licensure or certification and a photographic identification issued by one of the states in which he or she holds licensure or certification. The board shall notify the sponsoring entity, within 20 calendar days of receiving a request for authorization, whether that request is approved or denied, provided that, if the board receives a request for authorization less than 20 days prior to the date of the sponsored event, the board shall make reasonable efforts to notify the sponsoring entity whether that request is approved or denied prior to the date of that sponsored event.

(B) Satisfies the following requirements:

(i) The health care practitioner has not committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480 and is in good standing in each state in which he or she holds licensure or certification.

(ii) The health care practitioner has the appropriate education and experience to participate in a sponsored event, as determined by the board.

(iii) The health care practitioner shall agree to comply with all applicable practice requirements set forth in this division and the regulations adopted pursuant to this division.

(C) Submits to the board, on a form prescribed by the board, a request for authorization to practice without a license, and pays a fee, in an amount determined by the board by regulation, which shall be available, upon appropriation, to cover the cost of developing the authorization process and processing the request.

(2) The services are provided under all of the following circumstances:

(A) To uninsured or underinsured persons.

(B) On a short-term voluntary basis, not to exceed a 10-calendar-day period per sponsored event.

(C) In association with a sponsoring entity that complies with subdivision ~~(c)~~ *(d)*.

(D) Without charge to the recipient or to a third party on behalf of the recipient.

(c) The board may deny a health care practitioner authorization to practice without a license if the health care practitioner fails to

comply with ~~the requirements of~~ this section or for any act that would be grounds for denial of an application for licensure.

(d) A sponsoring entity seeking to provide, or arrange for the provision of, health care services under this section shall do both of the following:

(1) Register with each applicable board under this division for which an out-of-state health care practitioner is participating in the sponsored event by completing a registration form that shall include all of the following:

(A) The name of the sponsoring entity.

(B) The name of the principal individual or individuals who are the officers or organizational officials responsible for the operation of the sponsoring entity.

(C) The address, including street, city, ZIP Code, and county, of the sponsoring entity's principal office and each individual listed pursuant to subparagraph (B).

(D) The telephone number for the principal office of the sponsoring entity and each individual listed pursuant to subparagraph (B).

(E) Any additional information required by the board.

(2) Provide the information listed in paragraph (1) to the county health department of the county in which the health care services will be provided, along with any additional information that may be required by that department.

(e) The sponsoring entity shall notify the board and the county health department described in paragraph (2) of subdivision (d) in writing of any change to the information required under subdivision (d) within 30 calendar days of the change.

(f) Within 15 calendar days of the provision of health care services pursuant to this section, the sponsoring entity shall file a report with the board and the county health department of the county in which the health care services were provided. This report shall contain the date, place, type, and general description of the care provided, along with a listing of the health care practitioners who participated in providing that care.

(g) The sponsoring entity shall maintain a list of health care practitioners associated with the provision of health care services under this section. The sponsoring entity shall maintain a copy of each health care practitioner's current license or certification and shall require each health care practitioner to attest in writing that

his or her license or certificate is not suspended or revoked pursuant to disciplinary proceedings in any jurisdiction. The sponsoring entity shall maintain these records for a period of at least five years following the provision of health care services under this section and shall, upon request, furnish those records to the board or any county health department.

(h) A contract of liability insurance issued, amended, or renewed in this state on or after January 1, 2011, shall not exclude coverage of a health care practitioner or a sponsoring entity that provides, or arranges for the provision of, health care services under this section, provided that the practitioner or entity complies with this section.

(i) Subdivision (b) shall not be construed to authorize a health care practitioner to render care outside the scope of practice authorized by his or her license or certificate or this division.

(j) (1) The board may terminate authorization for a health care practitioner to provide health care services pursuant to this section for failure to comply with this section, any applicable practice requirement set forth in this division, any regulations adopted pursuant to this division, or for any act that would be grounds for discipline if done by a licensee of that board.

(2) The board shall provide both the sponsoring entity and the health care practitioner with a written notice of termination including the basis for that termination. The health care practitioner may, within 30 days after the date of the receipt of notice of termination, file a written appeal to the board. The appeal shall include any documentation the health care practitioner wishes to present to the board.

(3) A health care practitioner whose authorization to provide health care services pursuant to this section has been terminated shall not provide health care services pursuant to this section unless and until a subsequent request for authorization has been approved by the board. A health care practitioner who provides health care services in violation of this paragraph shall be deemed to be practicing health care in violation of the applicable provisions of this division, and be subject to any applicable administrative, civil, or criminal fines, penalties, and other sanctions provided in this division.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall

not affect other provisions or applications that can be given effect without the invalid provision or application.

(*l*) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 4. Section 3501 of the Business and Professions Code is amended to read:

3501. *(a)* As used in this chapter:

~~(a)~~

(1) "Board" means the Medical Board of California.

~~(b)~~

(2) "Approved program" means a program for the education of physician assistants that has been formally approved by the committee.

~~(c)~~

(3) "Trainee" means a person who is currently enrolled in an approved program.

~~(d)~~

(4) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the committee.

~~(e)~~

(5) "Supervising physician" means a physician and surgeon licensed by the board or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

~~(f)~~

(6) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

~~(g)~~

(7) "Committee" or "examining committee" means the Physician Assistant Committee.

~~(h)~~

(8) "Regulations" means the rules and regulations as set forth in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

~~(i)~~

(9) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

~~(j)~~

(10) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

~~(k)~~

(11) "Delegation of services agreement" means the writing that delegates to a physician assistant from a supervising physician the medical services the physician assistant is authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the California Code of Regulations.

~~(*l*)~~

(12) "Other specified medical services" means tests or examinations performed or ordered by a physician assistant practicing in compliance with this chapter or regulations of the board promulgated under this chapter.

~~(m)~~

(b) A physician assistant acts as an agent of the supervising physician when performing any activity authorized by this chapter or regulations promulgated by the board under this chapter.

SEC. 5. Section 3769.3 of the Business and Professions Code is amended to read:

3769.3. (a) Notwithstanding any other provision, the board may, by stipulation with the affected licensee, issue a public reprimand, after it has conducted an investigation, in lieu of filing or prosecuting a formal accusation.

(b) The stipulation shall contain the authority, grounds, and causes and circumstances for taking such action and by way of waiving the affected licensee's rights, inform the licensee of his or her rights to have a formal accusation filed and stipulate to a settlement thereafter or have the matter in the statement of issues heard before an administrative law judge in accordance with the Administrative ~~Procedures~~ *Procedure* Act *(Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code)*.

(c) The stipulation shall be public information and shall be used as evidence in any future disciplinary or penalty action taken by the board.

SEC. 6. Section 4207 of the Business and Professions Code is amended to read:

4207. (a) Upon receipt of an application for a license and the applicable fee, the board shall make a thorough investigation to determine whether the applicant is qualified for the license being sought. The board shall also determine whether this article has been complied with, and shall investigate all matters directly related to the issuance of the license that may affect the public welfare.

(b) The board shall not investigate matters connected with the operation of a premises other than those matters solely related to the furnishing of dangerous drugs or dangerous devices that might adversely affect the public welfare.

(c) The board shall deny an application for a license if the applicant does not qualify for the license being sought.

(d) Notwithstanding any other provision of law, the board may request any information it deems necessary to complete the application investigation required by this section, and a request for information that the board deems necessary in carrying out this section in any application or related form devised by the board shall not be required to be adopted by regulation pursuant to the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 7. Section 6140.38 of the Business and Professions Code is amended to read:

6140.38. (a) The State Bar shall report to the Senate Committee on Judiciary and the Assembly Committee on Judiciary on or before April 1, 2010, and annually thereafter, on the impact of the changes made to Section 6008.6 by ~~Senate Bill 55 of the 2009–10 Regular Session~~ *Chapter 2 of the Statutes of 2010*. In addition to a description of the impact of those changes, the report shall include, with specificity, the following: (1) the projects that previously would have been required to comply with Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code, but are no longer subject to that requirement because the contract amount is between fifty thousand dollars ($50,000) and one hundred thousand *dollars*

($100,000); and (2) whether the changes have improved the efficiency of the contracting process. The report required by this section may be included with the report described in Section 6140.36.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 8. Section 6322.1 of the Business and Professions Code, as amended by Section 1 of Chapter 720 of the Statutes of 2010, is amended to read:

6322.1. (a) Until the end of the moratorium described in Section 70601 of the Government Code, the board of supervisors of any county may increase, as provided in this section, the amount distributed to its county law library fund from the uniform filing fees listed in Section 6321 whenever it determines that the increase is necessary to defray the expenses of the law library.

Any increase in the amount distributed to the law library fund in any county under this subdivision shall not be effective until January 1 of the next year after the adoption by the board of supervisors of the increase. The amount of the increase in any calendar year shall be no greater than three dollars ($3) over the previous calendar year. A copy of the action of the board of supervisors that establishes the increase shall be provided to the Administrative Office of the Courts as soon as it becomes available but no later than December 15 of the year before the increased distribution goes into effect.

(b) Distribution changes after January 1, 2008, shall be determined by the process described in Section 70601 of the Government Code.

(c) (1) In an action or proceeding in which a claim for money damages falls within the monetary jurisdiction of the small claims court and is filed by an assignee who is prohibited from filing or maintaining a claim pursuant to Section 116.420 of the Code of Civil Procedure, the uniform filing fee shall be reduced by forty-four dollars ($44) to one hundred eighty-one dollars ($181) if the complaint contains a declaration under penalty of perjury, executed by the party requesting the reduction in fees, that the case qualifies for the lower fee because the claim for money damages will not exceed the monetary jurisdiction of small claims court and is filed by an assignee of the claim.

(2) When the uniform filing fee is reduced as provided under this subdivision, the amount distributed from each uniform filing fee to the law library fund in the county shall be as follows:

Jurisdiction	Amount
Alameda	$12.00
Alpine	1.00
Amador	6.00
Butte	12.00
Calaveras	7.00
Colusa	12.00
Contra Costa	8.00
Del Norte	6.00
El Dorado	9.00
Fresno	9.00
Glenn	6.00
Humboldt	12.00
Imperial	12.00
Inyo	6.00
Kern	12.00
Kings	12.00
Lake	12.00
Lassen	12.00
Los Angeles	5.00
Madera	12.00
Marin	12.00
Mariposa	4.00
Mendocino	12.00
Merced	12.00
Modoc	6.00
Mono	6.00
Monterey	10.00
Napa	12.00
Nevada	7.00
Orange	8.00
Placer	7.00
Plumas	6.00
Riverside	12.00
Sacramento	8.50
San Benito	6.00

San Bernardino	12.00
San Diego	12.00
San Francisco	12.00
San Joaquin	10.00
San Luis Obispo	12.00
San Mateo	12.00
Santa Barbara	12.00
Santa Clara	8.00
Santa Cruz	12.00
Shasta	8.50
Sierra	9.00
Siskiyou	8.00
Solano	9.00
Sonoma	12.00
Stanislaus	6.50
Sutter	1.00
Tehama	9.00
Trinity	6.00
Tulare	12.00
Tuolumne	2.00
Ventura	12.00
Yolo	10.00
Yuba	7.00

The increases described in subdivision (a) do not apply to the law library distributions in this subdivision.

(3) Notwithstanding subdivision (d) of Section 68085.4 of the Government Code, when the uniform filing fee is reduced as provided in this subdivision, the amounts distributed to dispute resolution programs, the State Court Facilities Construction Fund, the Judges' Retirement Fund, children's waiting rooms, and the Equal Access Fund shall remain as provided under subdivisions (b) and (c) of Section 68085.4 of the Government Code and shall not be changed. Only the amounts distributed to the Trial Court Trust Fund, the law libraries, and the Immediate and Critical Needs Account of the State Court Facilities Construction Fund shall be adjusted. The amount distributed from each uniform filing fee under this section to the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5 *of the Government Code*, shall be eleven dollars

($11). If the fee is further reduced below one hundred eighty-one dollars ($181), as with a partial waiver or partial payment, the proportional reductions described in subdivision (g) of Section 68085.1 of the Government Code shall apply.

(d) Distributions under this section to the law library fund in each county shall be used only for the purposes authorized by this chapter.

(e) As used in this section and Section 6321, "law library fund" includes a law library account described in the second paragraph of Section 6320.

(f) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 6322.1 of the Business and Professions Code, as added by Section 2 of Chapter 720 of the Statutes of 2010, is amended to read:

6322.1. (a) Until the end of the moratorium described in Section 70601 of the Government Code, the board of supervisors of any county may increase, as provided in this section, the amount distributed to its county law library fund from the uniform filing fees listed in Section 6321 whenever it determines that the increase is necessary to defray the expenses of the law library.

Any increase in the amount distributed to the law library fund in any county under this subdivision shall not be effective until January 1 of the next year after the adoption by the board of supervisors of the increase. The amount of the increase in any calendar year shall be no greater than three dollars ($3) over the previous calendar year. A copy of the action of the board of supervisors that establishes the increase shall be provided to the Administrative Office of the Courts as soon as it becomes available but no later than December 15 of the year before the increased distribution goes into effect.

(b) Distribution changes after January 1, 2008, shall be determined by the process described in Section 70601 of the Government Code.

(c) (1) In an action or proceeding in which a claim for money damages falls within the monetary jurisdiction of the small claims court and is filed by an assignee who is prohibited from filing or maintaining a claim pursuant to Section 116.420 of the Code of

Civil Procedure, the uniform filing fee shall be reduced by twenty-four dollars ($24) to one hundred eighty-one dollars ($181) if the complaint contains a declaration under penalty of perjury, executed by the party requesting the reduction in fees, that the case qualifies for the lower fee because the claim for money damages will not exceed the monetary jurisdiction of small claims court and is filed by an assignee of the claim.

(2) When the uniform filing fee is reduced as provided under this subdivision, the amount distributed from each uniform filing fee to the law library fund in the county shall be as follows:

Jurisdiction	Amount
Alameda	$12.00
Alpine	1.00
Amador	6.00
Butte	12.00
Calaveras	7.00
Colusa	12.00
Contra Costa	8.00
Del Norte	6.00
El Dorado	9.00
Fresno	9.00
Glenn	6.00
Humboldt	12.00
Imperial	12.00
Inyo	6.00
Kern	12.00
Kings	12.00
Lake	12.00
Lassen	12.00
Los Angeles	5.00
Madera	12.00
Marin	12.00
Mariposa	4.00
Mendocino	12.00
Merced	12.00
Modoc	6.00
Mono	6.00
Monterey	10.00
Napa	12.00

Nevada	7.00
Orange	8.00
Placer	7.00
Plumas	6.00
Riverside	12.00
Sacramento	8.50
San Benito	6.00
San Bernardino	12.00
San Diego	12.00
San Francisco	12.00
San Joaquin	10.00
San Luis Obispo	12.00
San Mateo	12.00
Santa Barbara	12.00
Santa Clara	8.00
Santa Cruz	12.00
Shasta	8.50
Sierra	9.00
Siskiyou	8.00
Solano	9.00
Sonoma	12.00
Stanislaus	6.50
Sutter	1.00
Tehama	9.00
Trinity	6.00
Tulare	12.00
Tuolumne	2.00
Ventura	12.00
Yolo	10.00
Yuba	7.00

The increases described in subdivision (a) do not apply to the law library distributions in this subdivision.

(3) Notwithstanding subdivision (d) of Section 68085.4 of the Government Code, when the uniform filing fee is reduced as provided in this subdivision, the amounts distributed to dispute resolution programs, the State Court Facilities Construction Fund, the Judges' Retirement Fund, children's waiting rooms, and the Equal Access Fund shall remain as provided under subdivisions (b) and (c) of Section 68085.4 of the Government Code and shall

not be changed. Only the amounts distributed to the Trial Court Trust Fund, the law libraries, and the Immediate and Critical Needs Account of the State Court Facilities Construction Fund shall be adjusted. The amount distributed from each uniform filing fee under this section to the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5 *of the Government Code*, shall be eleven dollars ($11). If the fee is further reduced below one hundred eighty-one dollars ($181), as with a partial waiver or partial payment, the proportional reductions described in subdivision (g) of Section 68085.1 of the Government Code shall apply.

(d) Distributions under this section to the law library fund in each county shall be used only for the purposes authorized by this chapter.

(e) As used in this section and Section 6321, "law library fund" includes a law library account described in the second paragraph of Section 6320.

(f) This section shall become operative on July 1, 2013.

SEC. 10. Section 6731.1 of the Business and Professions Code, as added by Chapter 625 of the Statutes of 1983, is repealed.

~~6731.1. Civil engineering also includes the practice or offer to practice, either in a public or private capacity, of all of the following:~~

~~(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.~~

~~(b) Determines the configuration or contour of the earth's surface or the position of fixed objects thereon or related thereto, by measuring lines and angles, and applying the principles of trigonometry or photogrammetry.~~

SEC. 11. Section 6731.2 of the Business and Professions Code, as added by Chapter 625 of the Statutes of 1983, is repealed.

~~6731.2. Any registered civil engineer may offer to practice, procure, or offer to procure, land surveying work incidental to his or her civil engineering practice, even though he or she is not authorized to perform that work, provided all the land surveying work is performed by, or under the direction of, a licensed land surveyor or registered civil engineer authorized to practice land surveying. Further, any registered civil engineer may manage or conduct as manager, proprietor, or agent, a civil engineering~~

~~practice which offers to practice, procure, or offers to procure, such incidental land surveying work.~~

SEC. 12. Section 7056 of the Business and Professions Code is amended to read:

7056. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the ~~above mentioned~~ *above-mentioned* fixed works.

SEC. 13. Section 7065 of the Business and Professions Code is amended to read:

7065. (a) Under rules and regulations adopted by the board and approved by the director, the registrar shall investigate, classify, and qualify applicants for contractors' licenses by written examination. This examination shall include questions designed to show that the applicant has the necessary degree of knowledge required by Section 7068 and shall include pertinent questions relating to the laws of this state~~,~~ and the contracting business and trade.

(b) Contractors' licenses are to be issued to individual owners, partnerships, corporations, and limited liability companies in accordance with ~~the provisions of~~ this chapter.

(1) Every person who is an officer, member, responsible manager, or director of a corporation or limited liability company seeking licensure under this chapter shall be listed on the application as a member of the personnel of record.

(2) Every person who is a member of a partnership seeking licensure under this chapter shall be listed on the application as a member of the personnel record.

(c) An applicant shall qualify for licensure in accordance with ~~the provisions of~~ this subdivision as follows:

(1) An individual owner may qualify by examination for a contractor's license upon the appearance of the owner or a qualifying individual appearing as a responsible managing employee on behalf of the owner.

(2) A partnership may qualify by examination for a contractor's license upon the appearance of a partner or a qualifying individual appearing as a responsible managing employee on behalf of the ~~copartnership~~ *partnership*.

(3) A corporation may qualify by examination for a contractor's license upon the appearance of a qualifying individual appearing either as a responsible managing officer or a responsible managing employee on behalf of the corporation.

(4) A limited liability company may qualify by examination for a contractor's license upon the appearance of a qualifying individual appearing as a responsible managing officer, a responsible managing manager, a responsible managing member, or a responsible managing employee on behalf of the company.

(d) No examination shall be required of a qualifying individual if, within the five-year period immediately preceding the application for licensure, the qualifying individual has either personally passed the written examination for the same classification being applied for, or has served as the qualifying individual for a licensee whose license was in good standing at any time during the five-year period immediately preceding the application for licensure and in the same classification being applied for.

SEC. 14. Section 7068.1 of the Business and Professions Code is amended to read:

7068.1. The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control of his or her employer's or principal's construction operations as is necessary to secure full compliance with ~~the provisions of~~ this chapter and the rules and regulations of the board relating to the construction operations. This person

shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

(a) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.

(b) The additional firm is a subsidiary of or a joint venture with the first. "Subsidiary," as used in this subdivision, means any firm at least 20 percent of the equity of which is owned by the other firm.

(c) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.

(d) Notwithstanding subdivisions (a), (b), and (c), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

"Firm," as used in this section, means a ~~copartnership~~ *partnership*, a limited partnership, a corporation, a limited liability company, or any other combination or organization described in Section 7068.

"Person," as used in this section, is limited to natural persons, notwithstanding the definition of "person" in Section 7025.

The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations.

SEC. 15. Section 7071 of the Business and Professions Code is amended to read:

7071. No license shall be issued to a corporation, partnership, limited liability company, or other combination or organization if a responsible officer or director of the corporation, or other combination or organization, or a partner of the ~~copartnership~~ *partnership*, or a manager or officer of the limited liability company, or any member of an organization seeking licensure under this chapter does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

SEC. 16. Section 7155 of the Business and Professions Code is amended to read:

7155. Violation of any provision of this chapter by a home improvement ~~salesman~~ *salesperson* constitutes cause for disciplinary action. The registrar may suspend or revoke the registration of the home improvement ~~salesman~~ *salesperson* if he *or she* is found to be in violation. The disciplinary proceedings shall be conducted in accordance with ~~the provisions of~~ Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 17. Section 8030.4 of the Business and Professions Code is amended to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(b) "Qualified support center" means an incorporated nonprofit legal services center, having an office or offices in California, which office or offices provide legal services or technical assistance without charge to qualified legal services projects and their clients on a multicounty basis in California. Support centers funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(c) "Other qualified project" means a nonprofit organization formed for charitable or other public purposes, not receiving funds from the Legal Services Corporation or pursuant to the Older Americans Act, which organization or association provides free legal services to indigent persons.

(d) "Pro bono attorney" means any attorney, law firm, or legal corporation, licensed to practice law in this state, that undertakes, without charge to the party, the representation of an indigent person, referred by a qualified legal services project, qualified support center, or other qualified project, in a case not considered to be fee generating, as defined in this chapter.

(e) "Applicant" means a qualified legal services project, qualified support center, other qualified project, or pro bono attorney applying to receive funds from the Transcript Reimbursement Fund established by this chapter. The term "applicant" shall not include a person appearing pro se to represent himself or herself at any stage of a case.

(f) (1) "Indigent person" means any of the following:

(A) A person whose income is 125 percent or less of the current poverty threshold established by the Office of Management and Budget of the United States.

(B) A person who is eligible for supplemental security income.

(C) A person who is eligible for, or receiving, free services under the Older Americans Act or the Developmentally Disabled Assistance Act.

(D) A person whose income is 75 percent or less of the maximum level of income for lower income households as defined in Section 50079.5 of the Health and Safety Code, for purposes of a program that provides legal assistance by an attorney in private practice on a pro bono basis.

(E) A person who qualifies for a waiver of fees pursuant to Section 68632 of the Government Code.

(2) For the purposes of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses.

(g) "Fee-generating case" means any case or matter that, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from an opposing party. A reasonable expectation as to payment of a legal fee exists wherever a client enters into a contingent fee agreement with his or her lawyer. If there is no contingent fee agreement, a case is not considered fee generating if adequate representation is deemed to be unavailable because of the occurrence of any of the following circumstances:

(1) If the applicant has determined that referral is not possible because of any of the following:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two private attorneys who have experience in the subject matter of the case.

(B) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee.

(C) The case is of the type that private attorneys in the area ordinarily do not accept or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) If recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) If a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "Lawyer referral service" means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) "Older Americans Act" means the Older Americans Act of 1965, Public Law 89-73, as amended.

(*l*) "Rules of professional conduct" means those rules adopted by the State Bar *of California* pursuant to Sections 6076 and 6077.

(m) "Certified shorthand reporter" means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) performing shorthand reporting services pursuant to Section 8017.

(n) "Case" means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

(o) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act of 1975 *(P.L. 94-103),* ~~(42 U.S.C. Sec. 6001 et seq.)~~ as amended.

(p) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 18. Section 8726.1 of the Business and Professions Code, as added by Chapter 625 of the Statutes of 1983, is repealed.

~~8726.1. Any licensed land surveyor may offer to practice, procure, or offer to procure civil engineering work incidental to his or her land surveying practice, even though he or she is not authorized to perform that work, provided all the civil engineering work is performed by or under the direction of a registered civil engineer. Further, any licensed land surveyor may manage or conduct as manager, proprietor, or agent, a land surveying practice which offers to practice, procure, or offers to procure, such incidental civil engineering work.~~

SEC. 19. Section 8761.1 of the Business and Professions Code, as added by Chapter 625 of the Statutes of 1983, is repealed.

~~8761.1. The authority of a licensed land surveyor or registered civil engineer to prepare, sign, issue, stamp, or seal any map, plat, report, description, or other document shall be consistent with that person's authority to practice land surveying.~~

SEC. 20. Section 19164 of the Business and Professions Code is amended to read:

19164. The bureau may, by regulation, establish insulation material standards governing the quality of all insulation material sold or installed within this state, including those properties that affect the safety and thermal performance of insulation material during application and in the use intended. The standards shall specify the initial performance of the insulation material and the performance expected during the design life of the insulation material. Until the bureau has adopted these ~~requlations~~ *regulations*, the regulations of the *State* Energy Resources Conservation and Development Commission in effect on the effective date of this section relating to those standards shall remain in full force and effect. However, wherever those regulations

specify that the commission shall perform an act, the bureau instead shall perform the act.

Prior to establishing the standards and procedures required by this chapter, the bureau shall conduct at least two public hearings, and shall invite the *State* Energy Resources Conservation and Development Commission, the State Fire Marshal, manufacturers, distributors, and licensed installers of insulation materials, and appropriate members of the public to participate in the hearings. Immediately upon adoption of the standards and procedures, the bureau shall provide a copy of the standards to the *State* Energy Resources Conservation and Development Commission, and the Contractors' State License Board. Within 30 days after receipt of the bureau's standards, the Contractors' State License Board shall notify all state licensed contractors who install insulation of the standards.

Insulation standards adopted by the bureau, pursuant to this section, and by the *State* Energy Resources Conservation and Development Commission, pursuant to Section 25402 of the Public Resources Code, which are building standards, as defined in Section 25488.5 *of the Public Resources Code*, shall be submitted to the ~~State~~ *California* Building Standards Commission for approval pursuant to, and are governed by, the ~~State~~ *California* Building Standards Law~~, Part~~ *(Part* 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety ~~Code~~ *Code)*. The building standards adopted by the bureau and published in the ~~State~~ *California* Building Standards Code shall comply with, and be enforced as provided in, this section.

SEC. 21. Section 19481.5 of the Business and Professions Code is amended to read:

19481.5. (a) Notwithstanding any other provision of law, no license shall be issued to conduct a horse racing meeting upon a track unless the track has been inspected by the board within 30 days prior to the date of application for a license and the track has been approved by the board as conforming to the racetrack safety standards set forth in subdivision (a) of Section 19481.

(b) The board shall adopt regulations to establish standards governing the employee housing provided to backstretch personnel at licensed racetracks. These regulations shall be commensurate with the housing standards established in the Employee Housing

Act *(Part 1* (commencing with Section ~~17000~~ *17000)* of Division 13 of the Health and Safety Code), and shall consider the following:

(1) The health and safety of the human and equine population and the necessity for humans and horses to live in close proximity.

(2) The housing needs of state or county facilities with live racing meetings of no more than 43 days in duration that do not operate as year-round training facilities. The board shall specifically consider the different needs of these facilities compared to permanent facilities or other state and county facilities that function on a year-round basis, including state and county fair facilities that operate as ~~a~~ year-round training facilities where horses are stabled and workers live.

(3) Compliance of facilities with racing meetings of 19 days or less, even if they operate as a year-round training facility, with this subdivision shall be contingent on funding in the ~~2002–03~~ Budget Act *of 2002 (Chapter 379 of the Statutes of 2002)*.

(c) Commencing January 1, 2004, the board, with assistance from the California Department of Housing and Community Development or a local building department or other local entity designated by the jurisdiction in which the racetrack is located, shall annually inspect the living conditions of backstretch employee housing to ensure compliance with the housing standards established by the board, the findings or results of which shall be submitted to the board. No license shall be issued to a racing association to conduct a horse race meeting unless the board has inspected the housing conditions that exist on the racetrack's backstretch and determined the living conditions to be in compliance with the standards established by the board in subdivision (b).

(d) The board may assess a reasonable fee upon racing associations to defray the costs associated with the inspections provided for in subdivision (c).

SEC. 22. Section 19501 of the Business and Professions Code is amended to read:

19501. (a) The Legislature finds and declares the following:

(1) Professional jockeys are vital to the horse racing industry and the work they perform is very dangerous.

(2) The minimum wage that jockeys receive in a horse race is established by the board as a minimum jockey riding fee. Jockeys

may earn additional compensation if the horse they are racing is a winning mount, a second place mount, or a third place mount.

(3) The minimum jockey riding fee has not kept up with inflation or the cost of living. Since 1970, the state minimum wage has increased at more than twice the rate that the average jockey riding fee increased over the same period.

(4) The riding fee should be increased at least as much on a percentage basis as the state minimum wage, so that the average full-time jockey can earn an income sufficient to provide for the basic necessities of life.

(b) (1) Effective January 1, 2010, the scale of minimum jockey riding fees for losing mounts established by the board shall be increased by ten dollars ($10) per mount from the rate in effect on December 31, 2009. Effective January 1, 2012, the scale of minimum jockey riding fees for losing mounts established by the board shall be increased by ten dollars ($10) per mount from the rate in effect on December 31, 2011, except the three lowest fees on the scale shall be increased by five dollars ($5) per mount. Thereafter, the scale of minimum jockey riding fees for losing mounts shall be increased whenever the state minimum wage is increased by the percentage of that increase.

(2) Effective January 1, 2010, the minimum amount awarded to the jockey who finishes second or third in a race shall be increased by ten dollars ($10) over the amount required to be paid on December 31, 2009. Effective January 1, 2012, the minimum amount awarded to the jockey who finishes second or third in a race shall be increased by five dollars ($5) over the amount required to be paid on December 31, 2011. This subdivision shall apply to races in which the purse is nine thousand nine hundred ninety-nine dollars ($9,999) or less.

(c) No jockey shall be paid less than the minimum jockey riding fees established pursuant to this section.

(d) Nothing in this section prohibits the board from increasing the minimum jockey riding fee above the minimum level required by this section.

SEC. 23. Section 19532.2 of the Business and Professions Code is amended to read:

19532.2. Notwithstanding any other provision of law, commencing July 1, 2010, if a racetrack located in the central zone is not available for use by a thoroughbred association that was

licensed by the board to conduct a live race meet at that racetrack in 2009, the board shall be authorized to allocate racing dates to that association to be operated at a racetrack in the central zone or southern zone for racing in 2010, or thereafter, in accordance with the rules and regulations of the ~~California Horse Racing Board~~ *board*, provided, however, that the number of racing dates allocated pursuant to this section does not exceed the number of racing dates that became unavailable at the central zone racetrack.

SEC. 24. Section 19604.5 of the Business and Professions Code is amended to read:

19604.5. (a) As used in this section, the following definitions apply:

(1) "Back" means to wager on a selected outcome occurring in a given market.

(2) "Board" means the California Horse Racing Board.

(3) "Corrective wager" means an exchange wager placed by the exchange wagering licensee in a given market, under circumstances approved by the board, in order to address the impact on that market of the cancellation or voiding of a given matched wager or a given part of a matched wager.

(4) "Exchange" means a system operated by an exchange wagering licensee in which the exchange wagering licensee maintains one or more markets in which persons may back or lay a selected outcome.

(5) "Exchange revenues" means all charges, fees, income, payments, revenues, and deductions of any kind assessed or collected by, or paid or delivered to, an exchange wagering licensee in connection with the submission of any exchange wagers to the exchange wagering licensee by residents of California and residents of jurisdictions outside of California on the results of horse races conducted in California, and by residents of California on the results of horse races conducted outside of California.

(6) "Exchange wagers" means wagers submitted to an exchange wagering licensee to be posted in a market on an exchange.

(7) "Exchange wagering" means a form of parimutuel wagering in which two or more persons place identically opposing wagers in a given market.

(8) "Exchange wagering account" means the account established with an exchange wagering licensee by a person participating in exchange wagering. An exchange wagering account may only be

established or maintained with an exchange wagering licensee by a natural person.

(9) "Exchange wagering agreement" means a written agreement by and among the applicable exchange wagering licensee, the applicable racing association or racing fair conducting live racing in this state, and the horsemen's organization responsible for negotiating purse agreements for the breed on which exchange wagers are accepted, provided that the terms and conditions for the permitted use of *the* signal by the exchange wagering licensee, and the compensation to the applicable racing association or racing fair and the horsemen's organization, include provisions for, but are not limited to, all of the following:

(A) Calculation of any and all amounts earned and payable to the applicable racing association or racing fair and horsemen's organization.

(B) Audit rights and conditions.

(C) Duration terms.

(D) Contractual remedies.

(10) "Exchange wagering licensee" means a person located within or outside of California that is authorized to offer exchange wagering to residents of California pursuant to this section.

(11) "Identically opposing wagers" means wagers in which one or more persons offer to lay a selected outcome at the same price at which one or more persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back.

(12) "Lay" means to wager on a selected outcome not occurring in a given market.

(13) "Market" means, in relation to a given horse race or a given set of horse races, a particular outcome that is subject to exchange wagering as determined by an exchange wagering licensee.

(14) "Matched wager" means the wager that is formed when two or more persons are confirmed by the exchange operator as having placed identically opposing wagers in a given market on the exchange.

(15) "Net winnings" means the aggregate amounts payable to a person as a result of that person's winning matched wagers in a pool less the aggregate amount paid by that person as a result of that person's losing matched wagers in that pool.

(16) "Parimutuel" means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

(17) "Person" means any individual, partnership, corporation, limited liability company, or other association or organization.

(18) "Pool" means the total of all matched wagers in a given market.

(19) "Price" means the odds for a given exchange wager.

(20) "Unmatched wager" means a wager or portion of a wager placed in a given market within an exchange that does not become part of a matched wager because there are not one or more available exchange wagers in that market with which to form one or more identically opposing wagers.

(21) "Zone" has the same meaning as defined in Section 19530.5, as modified by ~~the provisions of~~ subdivision (f) of Section 19601, except that for the purposes of this ~~act~~ *section* the combined central and southern zones shall be considered one "central/southern" zone.

(b) Notwithstanding any other law, rule, or regulation, exchange wagering by residents of California and residents of jurisdictions outside of California on the results of horse races conducted in California, and by residents of California on the results of horse races conducted outside of California, shall be lawful provided that all of the following apply:

(1) Exchange wagering shall only be conducted by an exchange wagering licensee pursuant to a valid exchange wagering license issued by the board.

(2) No exchange wagering licensee shall accept exchange wagers on races conducted in California from a resident of California or a resident of a jurisdiction outside California, or conducted outside California from a resident of California, unless an exchange wagering agreement exists allowing these wagers.

(3) Exchange wagering shall be conducted pursuant to and in compliance with the provisions of the Interstate Horseracing Act of 1978 (15 U.S.C. Sec. 3001 et seq.), as amended, this section, all applicable federal laws, and rules and regulations promulgated by the board pursuant to this section.

(4) An exchange wagering licensee may only offer exchange wagering on thoroughbred horse races, whether these thoroughbred races are conducted within or outside of this state, to persons whose primary residence address is in the northern zone of this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the northern zone authorized by the board to conduct a live thoroughbred racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is in the northern zone of this state, and (B) the horsemen's organization responsible for negotiating purse agreements for a live thoroughbred racing meeting.

(5) An exchange wagering licensee may only offer exchange wagering on thoroughbred horse races, whether these thoroughbred races are conducted within or outside of this state, to persons whose primary residence address is in the central/southern zone of this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the central/southern zone authorized by the board to conduct a live thoroughbred racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is in the central/southern zone of this state, and (B) the horsemen's organization responsible for negotiating purse agreements for a live thoroughbred racing meeting.

(6) An exchange wagering licensee may only offer exchange wagering on quarter horse races, whether these quarter horse races are conducted within or outside of this state, to persons whose primary residence address is in this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the state authorized by the board to conduct a live quarter horse racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is this state, and (B) the horsemen's organization responsible for

negotiating purse agreements for the live quarter horse racing meeting.

(7) An exchange wagering licensee may only offer exchange wagering on standardbred horse races, whether these standardbred horse races are conducted within or outside of this state, to persons whose primary residence address is in this state if it has an exchange wagering agreement with (A) the racing association or racing fair located in the state authorized by the board to conduct a live standardbred racing meeting in accordance with the provisions of Article 4 (commencing with Section 19480) at that time, or during the calendar period, when the exchange wagering licensee is offering exchange wagering to persons whose primary residence is this state, and (B) the horsemen's organization responsible for negotiating purse agreements for the live standardbred racing meeting.

(8) Exchange wagers are submitted to, and accepted by, an exchange wagering licensee in person, by direct telephone call, or by communication through other electronic media.

(c) A person shall not be permitted to open an exchange wagering account, or place an exchange wager, except in accordance with federal law, this section, and rules and regulations promulgated by the board. Only natural persons with valid exchange wagering accounts may place wagers through an exchange. To establish an exchange wagering account, a person shall be at least 18 years of age and a resident of California or of another jurisdiction within which the placement of exchange wagers would not be unlawful under United States federal law or the law of that jurisdiction.

(d) The board shall approve, as part of the exchange wagering licensee's application for an exchange wagering license, security policies and safeguards to ensure player protection and integrity, including, but not limited to, provisions governing the acceptance of electronic applications for persons establishing exchange wagering accounts, location and age verification confirmation for persons establishing exchange wagering accounts, the use of identifying factors to ensure security of individual accounts, and the requirements for management of funds in exchange wagering accounts. An exchange wagering licensee may not accept a wager, or series of wagers, if the results of the wager or wagers would create a liability for the exchange wagering account holder that is

in excess of the funds on deposit in the exchange wagering account of that holder.

(e) Notwithstanding any other law, rule, or regulation:

(1) The board shall have full power to prescribe rules, regulations, and conditions under which exchange wagering may be conducted in California consistent with this section, including the manner in which exchange wagers may be accepted and the requirements for any person to participate in exchange wagering.

(2) Prior to ~~the board~~ promulgating rules, regulations, and conditions under which exchange wagering may be conducted in California, the board shall consider studies or comments submitted by interested parties on the impact of exchange wagering on parimutuel betting and the economics of the California horse racing industry to assist the board in developing rules, regulations, and conditions for exchange wagering that are in the best interest of the public and the California horse racing industry. The board may set a ~~time frame~~ *timeframe* for comments and studies to be submitted by interested parties and for the board to consider the studies and comments so as to allow sufficient time, in the discretion of the board, to allow for the promulgation of rules, regulations, and conditions for exchange wagering and the issuance of licenses for exchange wagering prior to May 1, 2012.

(3) Notwithstanding paragraph (1), the board shall adopt the following rules:

(A) An owner, authorized agent, trainer, jockey, jockey's agent, driver, or stable employee shall not place an exchange wager to lay any entrant in a horse race that is owned in whole or part by that owner or the owner represented by that authorized agent, trained by that trainer or stable employee, ridden by that jockey or the jockey represented by that jockey's agent, or driven by that driver.

(B) No exchange wagers shall be placed on a market after the conclusion of a live race. Exchange wagering on previously run races is prohibited.

(C) The exchange wagering licensee shall provide a person with information on the race, including the track where the race will take place and the names of the participating horses, before the person may place an exchange wager.

(D) The exchange wagering licensee shall require the person making the exchange wager to select the specific race and horse

for the wager. The use of automatic, quick-pick, or similar features to aid in the placing of a wager shall be prohibited.

(E) The results of a wager shall not be displayed through the use of video or mechanical reels or other slot machine or casino game themes, including, but not limited to, dice games, wheel games, card games, and lotto.

(4) The board shall have full power to prescribe rules, regulations, and conditions under which all exchange wagering licenses are issued or renewed in California, including requiring an annual audit of the exchange wagering licensee's books and records pertaining to exchange wagering, and to revoke, suspend, or refuse to renew a license pursuant to the authority granted to the board in this chapter.

(5) The board may reasonably require licensure or registration of officers or directors of any exchange wagering licensee.

(6) The board may recover any costs associated with the licensing or regulation of exchange wagering from the exchange wagering licensee by imposing an assessment on the exchange wagering licensee in an amount that does not exceed the reasonable costs associated with the licensing or regulation of exchange wagering. Funds received pursuant to this subdivision shall be deposited in the Horse Racing Fund, to be available upon appropriation by the Legislature for the sole purpose of regulating exchange wagering.

(f) (1) The board shall not approve an application for an original or renewal license as an exchange wagering licensee unless the entity, if requested in writing by a bona fide labor organization no later than 90 days prior to licensing, has entered into a contractual agreement with that labor organization that provides all of the following:

(A) The labor organization has historically represented employees who accept or process any form of wagering at the nearest horse racing meeting located in California.

(B) The agreement establishes the method by which the exchange wagering licensee will agree to recognize and bargain in good faith with a labor organization which has demonstrated majority status by submitting authorization cards signed by those employees who accept or process any form of wagering for which a California exchange wagering license is required.

(C) The agreement requires the exchange wagering licensee to maintain its neutrality concerning the choice of those employees who accept or process any form of wagering for which a California exchange wagering license is required and whether or not to authorize the labor organization to represent them with regard to wages, hours, and other terms and conditions of employment.

(D) The agreement applies to those classifications of employees who accept or process wagers for which a California exchange wagering license is required, whether the facility is located within or outside of California.

(2) (A) The agreement required by paragraph (1) shall not be conditioned by either party upon the other party agreeing to matters outside the requirements of paragraph (1).

(B) The requirement in paragraph (1) shall not apply to an exchange wagering licensee ~~which~~ *that* has entered into a collective bargaining agreement with a bona fide labor organization that is the exclusive bargaining representative of employees who accept or process parimutuel wagers on races for which an exchange wagering license is required, whether the facility is located within or outside of California.

(3) Permanent state or county employees and nonprofit organizations that have historically performed certain services at county, state, or district fairs may continue to provide those services.

(4) Parimutuel clerks employed by racing associations or fairs or employees of exchange wagering licensees who accept or process any form of wagers who are laid off due to lack of work shall have preferential hiring rights for new positions with their employer in occupations whose duties include accepting or processing any form of wagers, or the operation, repair, service, or maintenance of equipment that accepts or processes any form of wagering at a racetrack, satellite wagering facility, or exchange wagering licensee licensed by the board. The preferential hiring rights established by this paragraph shall be conditioned upon the employee meeting the minimum qualification requirements of the new job.

(g) Notwithstanding any other law, rule, or regulation, an exchange wagering licensee shall not be required to include any pools of exchange wagers in the wagering pools at the racing association or racing fair conducting the races, nor shall an

exchange wagering licensee be required to retain, withhold, or take out any amounts from any exchange wagers, except as expressly set forth in the applicable exchange wagering agreement.

(h) Subject to the approval of the board, an exchange wagering licensee shall be permitted to collect exchange revenues in the manner and amounts determined by the exchange wagering licensee, including, but not limited to, assessing a surcharge on any person's net winnings.

(i) Notwithstanding any other law, rule, or regulation, the board shall require all of the following:

(1) Each exchange wagering licensee shall distribute all moneys in each pool, net of any fees, charges, or deductions of any kind assessed or collected by the exchange wagering licensee in connection with matched wagers in that pool, at the conclusion of the race or races associated with that pool.

(2) Each exchange wagering licensee shall distribute the portions of the exchange wagering licensee's exchange revenues as may be required pursuant to the exchange wagering agreement pursuant to paragraphs (2) to (7), inclusive, of subdivision (b).

(3) Fifty percent of the amounts received by a racing association or racing fair from exchange wagering shall be paid to horsemen participating in the meetings conducted by that racing association or racing fair in the form of purses. The allocation of amounts received by a racing association or racing fair from exchange wagering between that racing association or racing fair and the horsemen participating in the meetings conducted by that racing association or racing fair may be modified by a written agreement between those entities.

(4) In addition to payments set forth in paragraphs (1) and (2), each exchange wagering licensee shall distribute, on an annual basis, an amount equal to the greater of (A) one hundred thousand dollars ($100,000), or (B) an amount equal to 0.001 multiplied by the total amount of exchange revenues collected by the exchange wagering licensee in that calendar year. The distribution shall be made at the direction of the board pursuant to Section 19612.9. This paragraph shall become inoperative on January 1, 2021, and, as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2021, deletes or extends that date.

(j) An exchange wagering licensee may cancel or allow to be canceled any unmatched wagers, without cause, at any time.

(k) The board may prescribe rules governing when an exchange wagering licensee may cancel or void a matched wager or part of a matched wager, and the actions which an exchange wagering licensee may take when all or part of a matched wager is canceled or voided. The rules may include, but are not limited to, permitting the exchange wagering licensee to place corrective wagers under circumstances approved in the rules adopted by the board. Exchange wagers placed on a market after the start of a race shall be lawful if authorized by the board, racing association, or racing fair conducting the races, and the horsemen's organization responsible for negotiating purse agreements for the breed on which the exchange wager is made.

(*l*) The provisions of this section shall be deemed to be severable, and if any phrase, clause, sentence, or provision of this section is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this section shall not thereby be deemed to be unconstitutional or invalid.

(m) The board shall promulgate administrative rules and regulations to effectuate the purposes of this section.

(n) No exchange wagering licensee may accept exchange wagers pursuant to this section prior to May 1, 2012.

SEC. 25. Section 19605.73 of the Business and Professions Code is amended to read:

19605.73. (a) Thoroughbred racing associations, fairs, and the organization responsible for contracting with thoroughbred racing associations and fairs with respect to the conduct of racing meetings, may form a private, statewide marketing organization to market and promote thoroughbred and fair horse racing, including, but not limited to, *the* establishment and maintenance of an Internet Web site featuring California thoroughbred and fair racing, the establishment and administration of players incentive programs for those who wager on thoroughbred association and fair races, and promotional activities at satellite wagering facilities to increase their attendance and handle. While the promotional activities at satellite wagering facilities shall be funded by the marketing organization, they shall be implemented and coordinated by representatives of the satellite wagering facilities and the thoroughbred racing associations or ~~fair~~ *fairs* then conducting a live race meet. The organization shall consist of the following members: two members, one from the northern zone and one from

the combined central and southern zones, appointed by the thoroughbred racetracks; two members, one from the northern zone and one from the combined central and southern zones, appointed by the owners' organization responsible for contracting with associations and fairs with respect to the conduct of racing meetings; and two members, one from the northern zone and one from the combined central and southern zones, appointed by the organization representing racing and satellite fairs.

(b) The marketing organization formed pursuant to subdivision (a) shall, by November 1 of each year, submit a written report to the board on a statewide marketing and promotion plan for the upcoming calendar year. In addition, the organization shall annually present to the board at the board's November meeting a verbal report on the statewide marketing and promotion plan for the upcoming calendar year. The plan shall be implemented as determined by the organization. The organization shall receive input from all interested industry participants and may utilize outside consultants.

(c) In addition to the distributions specified in subdivisions (a) and (b) of Section 19605.7, subdivisions (a) and (b) of Section 19605.71, and Section 19605.72, for thoroughbred and fair meetings only, from the amount that would normally be available for commissions and purses, an amount not to exceed 0.25 percent of the total amount handled by each satellite wagering facility shall be distributed to the marketing organization formed pursuant to subdivision (a) for the purposes set forth therein. The amounts initially distributed to the marketing organization formed pursuant to subdivision (a) shall be 0.2 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. The amount distributable to the marketing organization may be adjusted by the board, in its discretion. However, the adjusted amounts may not exceed an aggregate of 0.25 percent of the total amount handled by satellite wagering facilities for thoroughbred and fair meetings only. Any of the promotion funds that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount. ~~Any of the promotion funds that are not expended in the year in which they are collected may be expended in the following year. If~~

~~promotion funds expended in any one year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.~~ The marketing organization, on a quarterly basis, shall submit to the board a written report that accounts for all receipts and expenditures of the promotion funds for the previous three months.

(d) This section shall remain in effect only until January 1, 2014, and, as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends that date. Any moneys held by the organization shall, in the event this section is repealed, be distributed to the organization formed pursuant to Section 19608.2, for purposes of that section.

SEC. 26. Section 19614.5 of the Business and Professions Code is amended to read:

19614.5. Notwithstanding Section 19614, any county or district agricultural association fair which is licensed to conduct racing meetings for the first time on or after January 1, 1979, may retain the license fee applicable to its meeting for payment of a capital expense loan incurred for the purpose of preparing its facilities for horseracing. ~~Such~~ *This* license fee retention shall be applicable only during the loan period and only so long as all the ~~monies~~ *moneys* retained are used to pay off the loan for ~~such~~ *the* capital expenses.

SEC. 27. Section 23358.2 of the Business and Professions Code is amended to read:

23358.2. Notwithstanding any other provision of this division, a winegrower or brandy manufacturer, at his *or her* licensed premises where the sale of wine or brandy is authorized or permitted, when selling to consumers, may sell only wine or brandy which is produced or bottled by such licensee, or wine or brandy which is produced for or is produced and packaged for such licensee, and which is sold under a brand name owned by such licensee. The rights and privileges of a winegrower or brandy manufacturer to be issued and to hold an off-sale beer and wine license for any of his *or her* licensed premises, or for other premises, shall not in any way be changed or affected, or be construed to be changed or affected, by the provisions of this section.

SEC. 28. Section 23368.1 of the Business and Professions Code is amended to read:

23368.1. A distilled spirits rectifier's general license authorizes the person to whom issued to cut, blend, rectify, mix, flavor, and color distilled spirits, and whether so cut, blended, mixed, flavored, or colored by him or any other person to package, label, export, and sell the distilled spirits to distilled spirits manufacturers, distilled spirits manufacturer's agents, distilled spirits wholesalers, distilled spirits general importers, rectifiers, and distilled spirits general rectifiers.

No distilled spirits rectifier's general license shall be issued to any person who holds an interest, directly or indirectly, in an on-sale or off-sale general license. The number of distilled spirits rectifier's general licenses which may be issued shall not be limited by the provisions of Section 23820.

A distilled spirits rectifier's general license may be issued to the same premises for which a manufacturer's, manufacturer's agent, importer's, rectifier's, or wholesaler's license has been issued and is in effect whether issued to the same person or another person.

The fee for a distilled spirits rectifier's general license shall be two hundred seventy-six dollars ($276), which shall be deposited in the ~~Alcoholic~~ *Alcohol* Beverage Control Fund.

SEC. 29. Section 23378.1 of the Business and Professions Code is amended to read:

23378.1. (a) A California brandy wholesaler's license may be issued only to the holder of a beer and wine wholesaler's license, and authorizes the person to whom it is issued (hereafter in this section called "licensee") to sell only brandy produced in California to persons holding licenses authorizing the sale of brandy, and to export ~~such~~ *that* brandy, subject to all of the following conditions:

(1) ~~Such~~ *The* licensee shall:

~~(i)~~

(A) Maintain warehouse space either owned or leased by him *or her* or dedicated to his *or her* use in a public warehouse which space is sufficient to store at one time a stock of California brandy whose cost of acquisition is one hundred thousand dollars ($100,000) or more.

~~(ii)~~

(B) Maintain at all times in his *or her* warehouse either owned or leased by him *or her* or in space dedicated to his *or her* use in a public warehouse a stock of California brandy whose cost of acquisition is one hundred thousand dollars ($100,000) or more.

If a licensee has more than one licensed premise, he *or she* shall be required to maintain warehouse space for and a stock of California brandy whose cost of acquisition is one hundred thousand dollars ($100,000) or more only in connection with one licensed premise. For each of the remaining licensed premises, the licensee shall be required to maintain warehouse space for and a stock of California brandy whose cost of acquisition is thirty thousand dollars ($30,000) or more. The stock of California brandy required by this paragraph shall be owned by the licensee, not held on consignment, and not acquired pursuant to a prior agreement to sell it to a specific licensee or licensees.

(2) ~~Such~~ *The* licensee shall sell California brandy to retailers generally, rather than a few selected retailers. A licensee who sells to 25 percent of the retailers in the county where his *or her* California brandy wholesale licensed premises are located, or a licensee whose total volume of sales of California brandy to retailers during any 12-month period consists of 50 percent or more of individual sales in quantities of 10 cases or less, shall be conclusively presumed to be selling to retailers generally.

(3) ~~Such~~ *The* licensee may sell only one California brandy of one winegrower, which brandy is produced or bottled by ~~such~~ *the* winegrower, or which is produced for, or is produced and packaged for, ~~such~~ *the* winegrower, and is sold under a brand name owned or controlled by ~~such~~ *the* winegrower.

(4) ~~Such~~ *The* licensee, under the authority of his *or her* beer and wine wholesaler's license, shall stock and offer to sell to retailers a complete product line of California wines of the winegrower whose brandy the licensee handles. A "complete product line" for the purposes of this paragraph means all of the types of wines sold under a particular label.

(b) The number of California brandy wholesaler's licenses which may be issued shall not be limited by any rule of the department relating to the number which may be issued in any county, nor shall ~~such~~ *those* licenses be included in any formula used by the department in determining the number of distilled spirits wholesaler's licenses which may be issued in a county.

(c) The fee for a California brandy wholesaler's license shall be two hundred seventy-six dollars ($276) per year, which shall be deposited in the ~~Alcoholic~~ *Alcohol* Beverage Control Fund.

SEC. 30. Section 25608 of the Business and Professions Code is amended to read:

25608. (a) Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds of the schoolhouse, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds of the schoolhouse, if any of the following applies:

(1) The alcoholic beverage possessed, consumed, or sold, pursuant to a license obtained under this division~~,~~ is wine that is produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.

(2) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(3) The public schoolhouse is surplus school property and the grounds of the schoolhouse are leased to a lessee that is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds of the schoolhouse are located in an unincorporated area and are leased to a lessee that is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted on the property by either the lessor or the lessee and the property is not being used by persons under ~~the age of~~ 21 years *of age* for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(4) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over 6,000,000 people. As used in this paragraph, "events" ~~mean~~ *means* football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

(5) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts facility built on property owned by a community college district and leased to a nonprofit organization that is a public benefit corporation formed under Part 2 (commencing with Section 5110)

of Division 2 of Title 1 of the Corporations Code. As used in this paragraph, "performing arts facility" means an auditorium with more than 300 permanent seats.

(6) The alcoholic beverage is wine for sacramental or other religious purposes and is used only during authorized religious services held on or before January 1, 1995.

(7) The alcoholic beverages are acquired, possessed, or used during an event at a community center owned by a community services district and the event is not held at a time when students are attending a public school-sponsored activity at the center.

(8) The alcoholic beverage is wine that is acquired, possessed, or used during an event sponsored by a community college district or an organization operated for the benefit of the community college district where the college district maintains both an instructional program in viticulture on no less than five acres of land owned by the district and an instructional program in enology, which includes sales and marketing.

(9) The alcoholic beverage is acquired, possessed, or used at a professional minor league baseball game conducted at the stadium of a community college located in a county with a population of ~~less~~ *fewer* than 250,000 inhabitants, and the baseball game is conducted pursuant to a contract between the community college district and a professional sports organization.

(10) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium or other facility. As used in this paragraph, "events" means fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event. "Events" does not include football games or other athletic contests sponsored by any college or public community college. This paragraph shall not apply to any public education facility in which any grade from kindergarten to grade 12, inclusive, is schooled.

(11) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license, permit, or authorization obtained under this division, for an event held at an overnight retreat facility owned and operated by a county office of education or a school district at times when pupils are not on the grounds.

(12) The grounds of the public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property that has been developed and is used for residential

facilities or housing that is offered for rent, lease, or sale exclusively to faculty or staff of a public school or community college.

(13) The grounds of a public schoolhouse on which the alcoholic beverage is acquired, possessed, used, or consumed is property of a community college that is leased, licensed, or otherwise provided for use as a water conservation demonstration garden and community passive recreation resource by a joint powers agency comprised of public agencies, including the community college, and the event at which the alcoholic beverage is acquired, possessed, used, or consumed is conducted pursuant to a written policy adopted by the governing body of the joint powers agency and no public funds are used for the purchase or provision of the alcoholic beverage.

(14) The alcoholic beverage is beer or wine acquired, possessed, used, sold, or consumed only in connection with a course of instruction, sponsored dinner, or meal demonstration given as part of a culinary arts program at a campus of a California community college and the person has been authorized to acquire, possess, use, sell, or consume the beer or wine by the governing body or other administrative head of the school.

(15) The alcoholic beverages are possessed, consumed, or sold, pursuant to a license or permit obtained under this division, for special events held at the facilities of a public community college, located in a county of the first class, a county of the fourth class, or a county of the tenth class, during the special event. As used in this paragraph, "special event" means festivals, shows, private parties, concerts, theatrical productions, and other events held on the premises of the public community college, pursuant to a license or permit, and for which the principal attendees are members of the general public or invited guests and not students of the public community college.

(16) The alcoholic beverages are acquired, possessed, or used during an event at a community college-owned facility in which any grade from kindergarten to grade 12, inclusive, is schooled, if the event is held at a time when ~~students~~ *pupils* in any grades from kindergarten to grade 12, inclusive, are not present at the facility. As used in this paragraph, "events" include fundraisers held to benefit a nonprofit corporation that has obtained a license pursuant to this division for the event.

(b) Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Article 2 (commencing with Section 82537) of Chapter 8 of Part 49 of Division 7 of Title 3 *of* the Education Code.

SEC. 31. Section 25658 of the Business and Professions Code is amended to read:

25658. (a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away~~,~~ any alcoholic beverage to any person under ~~the age of~~ 21 years *of age* is guilty of a misdemeanor.

(b) Except as provided in Section 25667, any person under ~~the age of~~ 21 years *of age* who purchases any alcoholic beverage, or any person under ~~the age of~~ 21 years *of age* who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under ~~the age of~~ 21 years *of age*, and the person under ~~the age of~~ 21 years *of age* thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under ~~the age of~~ 21 years *of age* to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under ~~the age of~~ 21 years *of age*, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2)~~,~~ *or* (3), or Section 25667, any person who violates this section shall be punished by a fine of two hundred fifty dollars ($250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b), where prosecution of the previous violation was not barred pursuant to Section 25667, shall be punished by a fine of not more than five hundred dollars ($500), or the person shall

be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars ($1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of one thousand dollars ($1,000), or by both imprisonment and fine.

(f) Persons under ~~the age of~~ 21 years *of age* may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish alcoholic beverages to minors. Notwithstanding subdivision (b), any person under ~~the age of~~ 21 years *of age* who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under ~~the age of~~ 21 years *of age* as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under ~~the age of~~ 21 years *of age*. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor

decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given to licensees and the department within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 272 of the Penal Code and Section 13202.5 of the Vehicle Code.

SEC. 32. Section 798.23.5 of the Civil Code is amended to read:

798.23.5. (a) (1) Management shall permit a homeowner to rent his or her home that serves as the homeowner's primary residence or sublet his or her space, under the circumstances described in paragraph (2) and subject to the requirements of this section.

(2) A homeowner shall be permitted to rent or sublet pursuant to paragraph (1) if a medical emergency or medical treatment requires the homeowner to be absent from his or her home and this is confirmed in writing by an attending physician.

(b) The following provisions shall apply to a rental or sublease pursuant to this section:

(1) The minimum term of the rental or sublease shall be six months, unless the management approves a shorter term, but no greater than 12 months, unless management approves a longer term.

(2) The management may require approval of a prospective renter or sublessee, subject to the process and restrictions provided by subdivision (a) of Section 798.74 for prospective purchasers of mobilehomes. A prospective sublessee shall comply with any rule or regulation limiting residency based on age requirements, pursuant to Section 798.76. The management may charge a prospective sublessee a credit screening fee for the actual cost of any personal reference check or consumer credit report that is

provided by a consumer credit reporting agency, as defined in Section 1785.3, if the management or his or her agent requires that personal reference check or consumer credit report.

(3) The renter or sublessee shall comply with all rules and regulations of the park. The failure of a renter or sublessee to comply with the rules and regulations of the park may result in the termination of the homeowner's tenancy in the mobilehome park, in accordance with Section 798.56. A homeowner's tenancy may not be terminated under this paragraph if the homeowner completes an action for unlawful detainer or executes a ~~judgement~~ *judgment* for possession, pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure within 60 days of the homeowner receiving notice of termination of tenancy.

(4) The homeowner shall remain liable for the mobilehome park rent and other park charges.

(5) The management may require the homeowner to reside in the mobilehome park for a term of one year before management permits the renting or subletting of a mobilehome or mobilehome space.

(6) Notwithstanding subdivision (a) of Section 798.39, if a security deposit has been refunded to the homeowner pursuant to subdivision (b) or (c) of Section 798.39, the management may require the homeowner to resubmit a security deposit in an amount or value not to exceed two months' rent in addition to the first month's rent. Management may retain this security deposit for the duration of the term of the rental or sublease.

(7) The homeowner shall keep his or her current address and telephone number on file with the management during the term of rental or sublease. If applicable, the homeowner may provide the name, address, and telephone number of his or her legal representative.

(c) A homeowner may not charge a renter or sublessee more than an amount necessary to cover the cost of space rent, utilities, and scheduled loan payments on the mobilehome, if any.

SEC. 33. Section 799.1 of the Civil Code is amended to read:

799.1. (a) Except as provided in subdivision (b), this article shall govern the rights of a resident who has an ownership interest in the subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park in which his or her

mobilehome is located or installed. In a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, ~~Articles~~ *Article* 1 (commencing with Section 798) ~~through~~ *to* Article 8 (commencing with Section 798.84), *inclusive,* shall apply only to a resident who does not have an ownership interest in the subdivision, cooperative, or condominium for mobilehomes, or the resident-owned mobilehome park, in which his or her mobilehome is located or installed.

(b) Notwithstanding subdivision (a), in a mobilehome park owned and operated by a nonprofit mutual benefit corporation, established pursuant to Section 11010.8 of the Business and Professions Code, whose members consist of park residents where there is no recorded condominium plan, tract, parcel map, or declaration, Article 1 (commencing with Section 798) ~~through~~ *to* Article 8 (commencing with Section 798.84), *inclusive,* shall govern the rights of members who are residents that have a rental agreement with the corporation.

SEC. 34. Section 1195 of the Civil Code is amended to read:

1195. (a) Proof of the execution of an instrument, when not acknowledged, may be made any of the following:

~~1.~~

(1) By the party executing it, or either of them.

~~2.~~

(2) By a subscribing witness.

~~3.~~

(3) By other witnesses, in cases mentioned in Section 1198.

(b) Proof of the execution of a grant deed, mortgage, deed of trust, quitclaim deed, or security agreement is not permitted pursuant to Section 27287 of the Government Code, though proof of the execution of a trustee's deed or deed of reconveyance is permitted.

(c) Any certificate for proof of execution taken within this state may be in the following form, although the use of other, substantially similar forms is not precluded:

State of California
County of _____ } ss.

On ____ (date), before me, the undersigned, a notary public for the state, personally appeared ____ (subscribing witness's

name), personally known to me (or proved to me on the oath of ____ [credible witness's name], who is personally known to me) to be the person whose name is subscribed to the within instrument, as a witness thereto, who, being by me duly sworn, deposed and said that he/she was present and saw ____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within and annexed instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute the same, and that said affiant subscribed his/her name to the within instrument as a witness at the request of ____ (name[s] of principal[s]).

WITNESS my hand and official seal.

Signature_____ (Seal)

SEC. 35. Section 3344.1 of the Civil Code is amended to read:

3344.1. (a) (1) Any person who uses a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the person or persons specified in subdivision (c), shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars ($750) or the actual damages suffered by the injured party or parties, as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing these profits, the injured party or parties shall be required to present proof only of the gross revenue attributable to the use, and the person who violated the section is required to prove his or her deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party or parties in any action under this section shall also be entitled to attorney's fees and costs.

(2) For purposes of this subdivision, a play, book, magazine, newspaper, musical composition, audiovisual work, radio or television program, single and original work of art, work of

political or newsworthy value, or an advertisement or commercial announcement for any of these works, shall not be considered a product, article of merchandise, good, or service if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work.

(3) If a work that is protected under paragraph (2) includes within it a use in connection with a product, article of merchandise, good, or service, this use shall not be exempt under this subdivision, notwithstanding the unprotected use's inclusion in a work otherwise exempt under this subdivision, if the claimant proves that this use is so directly connected with a product, article of merchandise, good, or service as to constitute an act of advertising, selling, or soliciting purchases of that product, article of merchandise, good, or service by the deceased personality without prior consent from the person or persons specified in subdivision (c).

(b) The rights recognized under this section are property rights, freely transferable or descendible, in whole or in part, by contract or by means of any trust or any other testamentary instrument, executed before or after January 1, 1985. The rights recognized under this section shall be deemed to have existed at the time of death of any deceased personality who died prior to January 1, 1985, and, except as provided in subdivision (o), shall vest in the persons entitled to these property rights under the testamentary instrument of the deceased personality effective as of the date of his or her death. In the absence of an express transfer in a testamentary instrument of the deceased personality's rights in his or her name, voice, signature, photograph, or likeness, a provision in the testamentary instrument that provides for the disposition of the residue of the deceased personality's assets shall be effective to transfer the rights recognized under this section in accordance with the terms of that provision. The rights established by this section shall also be freely transferable or descendible by contract, trust, or any other testamentary instrument by any subsequent owner of the deceased personality's rights as recognized by this section. Nothing in this section shall be construed to render invalid or unenforceable any contract entered into by a deceased personality during his or her lifetime by which the deceased personality assigned the rights, in whole or in part, to use his or her name, voice, signature, photograph, or likeness, regardless of

whether the contract was entered into before or after January 1, 1985.

(c) The consent required by this section shall be exercisable by the person or persons to whom the right of consent, or portion thereof, has been transferred in accordance with subdivision (b), or if no transfer has occurred, then by the person or persons to whom the right of consent, or portion thereof, has passed in accordance with subdivision (d).

(d) Subject to subdivisions (b) and (c), after the death of any person, the rights under this section shall belong to the following person or persons and may be exercised, on behalf of and for the benefit of all of those persons, by those persons who, in the aggregate, are entitled to more than a one-half interest in the rights:

(1) The entire interest in those rights ~~belong~~ *belongs* to the surviving spouse of the deceased personality unless there are any surviving children or grandchildren of the deceased personality, in which case one-half of the entire interest in those rights ~~belong~~ *belongs* to the surviving spouse.

(2) The entire interest in those rights ~~belong~~ *belongs* to the surviving children of the deceased personality and to the surviving children of any dead child of the deceased personality unless the deceased personality has a surviving spouse, in which case the ownership of a one-half interest in rights is divided among the surviving children and grandchildren.

(3) If there is no surviving spouse, and no surviving children or grandchildren, then the entire interest in those rights ~~belong~~ *belongs* to the surviving parent or parents of the deceased personality.

(4) The rights of the deceased personality's children and grandchildren are in all cases divided among them and exercisable in the manner provided in Section 240 of the Probate Code according to the number of the deceased personality's children represented. The share of the children of a dead child of a deceased personality can be exercised only by the action of a majority of them.

(e) If any deceased personality does not transfer his or her rights under this section by contract, or by means of a trust or testamentary instrument, and there are no surviving persons as described in subdivision (d), then the rights set forth in subdivision (a) shall terminate.

(f) (1) A successor in interest to the rights of a deceased personality under this section or a licensee thereof ~~may~~ *shall* not recover damages for a use prohibited by this section that occurs before the successor in interest or licensee registers a claim of the rights under paragraph (2).

(2) Any person claiming to be a successor in interest to the rights of a deceased personality under this section or a licensee thereof may register that claim with the Secretary of State on a form prescribed by the Secretary of State and upon payment of a fee as set forth in subdivision (d) of Section 12195 of the Government Code. The form shall be verified and shall include the name and date of death of the deceased personality, the name and address of the claimant, the basis of the claim, and the rights claimed.

(3) Upon receipt and after filing of any document under this section, the Secretary of State shall post the document along with the entire registry of persons claiming to be a successor in interest to the rights of a deceased personality or a registered licensee under this section upon the Secretary of State's Internet Web site. The Secretary of State may microfilm or reproduce by other techniques any of the filings or documents and destroy the original filing or document. The microfilm or other reproduction of any document under ~~the provisions of~~ this section shall be admissible in any court of law. The microfilm or other reproduction of any document may be destroyed by the Secretary of State 70 years after the death of the personality named therein.

(4) Claims registered under this subdivision shall be public records.

(g) An action shall not be brought under this section by reason of any use of a deceased personality's name, voice, signature, photograph, or likeness occurring after the expiration of 70 years after the death of the deceased personality.

(h) As used in this section, "deceased personality" means any natural person whose name, voice, signature, photograph, or likeness has commercial value at the time of his or her death, or because of his or her death, whether or not during the lifetime of that natural person the person used his or her name, voice, signature, photograph, or likeness on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services. A "deceased personality" shall include, without limitation, any such

natural person who has died within 70 years prior to January 1, 1985.

(i) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the deceased personality is readily identifiable. A deceased personality shall be deemed to be readily identifiable from a photograph if one who views the photograph with the naked eye can reasonably determine who the person depicted in the photograph is.

(j) For purposes of this section, the use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(k) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing the use is commercially sponsored or contains paid advertising. Rather, it shall be a question of fact whether or not the use of the deceased personality's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(*l*) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit advertisements, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that the owners or employees had knowledge of the unauthorized use of the deceased personality's name, voice, signature, photograph, or likeness as prohibited by this section.

(m) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

(n) This section shall apply to the adjudication of liability and the imposition of any damages or other remedies in cases in which the liability, damages, and other remedies arise from acts occurring directly in this state. For purposes of this section, acts giving rise to liability shall be limited to the use, on or in products, merchandise, goods, or services, or the advertising or selling, or

soliciting purchases of, products, merchandise, goods, or services prohibited by this section.

(o) Notwithstanding any provision of this section to the contrary, if an action was taken prior to May 1, 2007, to exercise rights recognized under this section relating to a deceased personality who died prior to January 1, 1985, by a person described in subdivision (d), other than a person who was disinherited by the deceased personality in a testamentary instrument, and the exercise of those rights was not challenged successfully in a court action by a person described in subdivision (b), that exercise shall not be affected by subdivision (b). In that case, the rights that would otherwise vest in one or more persons described in subdivision (b) shall vest solely in the person or persons described in subdivision (d), other than a person disinherited by the deceased personality in a testamentary instrument, for all future purposes.

(p) The rights recognized by this section are expressly made retroactive, including to those deceased personalities who died before January 1, 1985.

SEC. 36. Section 170.9 of the Code of Civil Procedure is amended to read:

170.9. (a) A judge shall not accept gifts from a single source in a calendar year with a total value of more than two hundred fifty dollars ($250). This section shall not be construed to authorize the receipt of gifts that would otherwise be prohibited by the ~~California~~ Code of Judicial Ethics adopted by the California Supreme Court or any other law.

(b) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by subdivision (e).

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, if the gifts exchanged are not substantially disproportionate in value.

(3) A gift, bequest, favor, or loan from a person whose preexisting relationship with a judge would prevent the judge from hearing a case involving that person, under the Code of Judicial Ethics adopted by the California Supreme Court.

(c) For purposes of this section, “judge” includes all of the following:

(1) Judges of the superior courts.

(2) Justices of the courts of appeal and the Supreme Court.

(3) Subordinate judicial officers, as defined in Section 71601 of the Government Code.

(d) The gift limitation amounts in this section shall be adjusted biennially by the Commission on Judicial Performance to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars ($10).

(e) Payments, advances, or reimbursements~~,~~ for travel, including actual transportation and related lodging and subsistence that is reasonably related to a judicial or governmental purpose, or to an issue of state, national, or international public policy, ~~is~~ *are* not prohibited or limited by this section if any of the following apply:

(1) The travel is in connection with a speech, practice demonstration, or group or panel discussion given or participated in by the judge, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, demonstration, or discussion, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency or authority, a foreign government, a foreign bar association, an international service organization, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

For purposes of this section, “foreign bar association” means an association of attorneys located outside the United States (A) that performs functions substantially equivalent to those performed by state or local bar associations in this state and (B) that permits membership by attorneys in that country representing various legal specialties and does not limit membership to attorneys generally representing one side or another in litigation. “International service organization” means a bona fide international service organization of which the judge is a member. A judge who accepts travel payments from an international service organization pursuant to this subdivision shall not preside over or participate in decisions affecting that organization, its state or local chapters, or its local members.

(3) The travel is provided by a state or local bar association or judges professional association in connection with testimony before a governmental body or attendance at any professional function hosted by the bar association or judges professional association, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the professional function.

(f) Payments, advances, and reimbursements for travel not described in subdivision (e) are subject to the limit in subdivision (a).

(g) No judge shall accept any honorarium.

(h) "Honorarium" means a payment made in consideration for any speech given, article published, or attendance at a public or private conference, convention, meeting, social event, meal, or like gathering.

(i) "Honorarium" does not include earned income for personal services that are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching or writing for a publisher, and does not include fees or other things of value received pursuant to Section 94.5 of the Penal Code for performance of a marriage.

For purposes of this section, "teaching" shall include presentations to impart educational information to lawyers in events qualifying for credit under mandatory continuing legal education, to students in bona fide educational institutions, and to associations or groups of judges.

(j) Subdivisions (a) and (e) shall apply to all payments, advances, and reimbursements for travel and related lodging and subsistence.

(k) This section does not apply to any honorarium that is not used and, within 30 days after receipt, is either returned to the donor or delivered to the Controller for deposit in the General Fund without being claimed as a deduction from income for tax purposes.

(*l*) "Gift" means a 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. A 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. However, the term "gift" does not include any of the following:

(1) Informational material such as books, reports, pamphlets, calendars, periodicals, cassettes and discs, or free or reduced-price admission, tuition, or registration, for informational conferences or seminars. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(2) Gifts that are not used and, 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 a judge's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person. However, a gift from any of those persons shall be considered a gift if the donor is acting as an agent or intermediary for a person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars ($250).

(7) Admission to events hosted by state or local bar associations or ~~judges'~~ *judges* professional associations, and provision of related food and beverages at those events, when attendance does not require "travel," as described in paragraph (3) of subdivision (e).

(m) The Commission on Judicial Performance shall enforce the prohibitions of this section with regard to judges of the superior courts and justices of the courts of appeal and the Supreme Court. With regard to subordinate judicial officers, consistent with Section 18.1 of Article VI *of* the California Constitution, the court employing the subordinate judicial officer shall exercise initial jurisdiction to enforce the prohibitions of this section, and the Commission on Judicial Performance shall exercise discretionary jurisdiction with respect to the enforcement of the prohibitions of this section.

SEC. 37. Section 630.01 of the Code of Civil Procedure is amended to read:

630.01. For purposes of this chapter:

(a) "Expedited jury trial" means a consensual, binding jury trial before a reduced jury panel and a judicial officer.

(b) "High/low agreement" means a written agreement entered into by the parties that specifies a minimum amount of damages that a plaintiff is guaranteed to receive from the defendant, and a maximum amount of damages that the defendant will be liable for, regardless of the ultimate verdict returned by the jury. Neither the existence of, nor the amounts contained in, any high/low agreements~~,~~ may be disclosed to the jury.

(c) "Post-trial motions" ~~do~~ *does* not include motions relating to costs and attorney's fees, motions to correct a judgment for a clerical error, and motions to enforce a judgment.

SEC. 38. Section 630.08 of the Code of Civil Procedure is amended to read:

630.08. (a) By agreeing to participate in the expedited jury trial process, the parties agree to waive any motions for directed ~~verdicts~~ *verdict*, motions to set aside the verdict or any judgment rendered by the jury, or motions for a new trial on the basis of inadequate or excessive damages.

(b) The court shall not set aside any verdict or any judgment, shall not direct that judgment be entered in favor of a party entitled to judgment as a matter of law, and shall not order a new trial, except on the grounds stated in Section 630.09.

SEC. 39. Section 877 of the Code of Civil Procedure is amended to read:

877. Where a release, dismissal with or without prejudice, or a ~~convenant~~ *covenant* not to sue or not to enforce judgment is given in good faith before verdict or judgment to one or more of a number of tortfeasors claimed to be liable for the same tort, or to one or more other co-obligors mutually subject to contribution rights, it shall have the following effect:

(a) It shall not discharge any other such party from liability unless its terms so provide, but it shall reduce the claims against the others in the amount stipulated by the release, the dismissal or the covenant, or in the amount of the consideration paid for it, whichever is the greater.

(b) It shall discharge the party to whom it is given from all liability for any contribution to any other parties.

(c) This section shall not apply to co-obligors who have expressly agreed in writing to an apportionment of liability for losses or claims among themselves.

(d) This section shall not apply to a release, dismissal with or without prejudice, or a covenant not to sue or not to enforce judgment given to a co-obligor on an alleged contract debt where the contract was made prior to January 1, 1988.

SEC. 40. Section 1010.6 of the Code of Civil Procedure is amended to read:

1010.6. (a) A document may be served electronically in an action filed with the court as provided in this section, in accordance with rules adopted pursuant to subdivision (d).

(1) For purposes of this section:

(A) "Electronic service" means service of a document, on a party or other person, by either electronic transmission or electronic notification. Electronic service may be performed directly by a party, by an agent of a party, including the party's attorney, or through an electronic filing service provider.

(B) "Electronic transmission" means the transmission of a document by electronic means to the electronic service address at or through which a party or other person has authorized electronic service.

(C) "Electronic notification" means the notification of the party or other person that a document is served by sending an electronic message to the electronic address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served, and providing a hyperlink at which the served document may be viewed and downloaded.

(2) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is authorized when a party has agreed to accept service electronically in that action.

(3) In any action in which a party has agreed to accept electronic service under paragraph (2), or in which the court has ordered electronic service under subdivision (c), the court may electronically serve any document issued by the court that is not required to be personally served in the same manner that parties electronically serve documents. The electronic service of documents by the court shall have the same legal effect as service by mail, except as provided in paragraph (4).

(4) Electronic service of a document is complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent. However, any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic means by two court days, but the extension shall not apply to extend the time for filing any of the following:

(A) A notice of intention to move for new trial.

(B) A notice of intention to move to vacate judgment under Section 663a.

(C) A notice of appeal.

This extension applies in the absence of a specific exception provided by any other statute or rule of court.

(b) A trial court may adopt local rules permitting electronic filing of documents, subject to rules adopted pursuant to subdivision ~~(c)~~ *(d)* and the following conditions:

(1) A document that is filed electronically shall have the same legal effect as an original paper document.

(2) (A) When a document to be filed requires the signature, not under penalty of perjury, of an attorney or a self-represented party, the document shall be deemed to have been signed by that attorney or self-represented party if filed electronically.

(B) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if a printed form of the document has been signed by that person prior to, or on the same day as, the date of filing. The attorney or person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or person filing the document shall maintain the printed form of the document bearing the original signature and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed.

(3) Any document that is electronically filed with the court after the close of business on any day shall be deemed to have been filed on the next court day. “Close of business,” as used in this paragraph, shall mean 5 p.m. or the time at which the court would not accept filing at the court’s filing counter, whichever is earlier.

(4) The court receiving a document filed electronically shall issue a confirmation that the document has been received and filed. The confirmation shall serve as proof that the document has been filed.

(5) Upon electronic filing of a complaint, petition, or other document that must be served with a summons, a trial court, upon request of the party filing the action, shall issue a summons with the court seal and the case number. The court shall keep the summons in its records and may electronically transmit a copy of the summons to the requesting party. Personal service of a printed form of the electronic summons shall have the same legal effect as personal service of an original summons. If a trial court plans to electronically transmit a summons to the party filing a complaint, the court shall immediately upon receipt of the complaint notify the attorney or party that a summons will be electronically transmitted to the electronic address given by the person filing the complaint.

(6) The court shall permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of the filing fee, as part of the process involving the electronic filing of a document. The court shall consider and determine the application in accordance with Sections 68630 to 68641, inclusive, of the Government Code and shall not require the party or attorney to submit any documentation other than that set forth in Sections 68630 to 68641, inclusive, of the Government Code. Nothing in this section shall require the court to waive a filing fee that is not otherwise waivable.

(c) If a trial court adopts rules conforming to subdivision (b), it may provide by order that all parties to an action file and serve documents electronically in a class action, a consolidated action, or a group of actions, a coordinated action, or an action that is deemed complex under Judicial Council rules, provided that the trial court's order does not cause undue hardship or significant prejudice to any party in the action.

(d) The Judicial Council shall adopt uniform rules for the electronic filing and service of documents in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, and access to public records, and rules relating to the integrity of electronic service. These rules shall conform to the conditions set forth in this section, as amended from time to time.

SEC. 41. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the 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 inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to ~~Section 68511.3~~ *Article 6 (commencing with Section 68630) of Chapter 2 of Title 8* of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the

findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to ~~The~~ *the* Local ~~Hospital~~ *Health Care* District Law~~,~~ ~~Division 23~~ *(Chapter 1* (commencing with Section 32000) of *Division 23 of* the Health and Safety ~~Code~~ *Code)* or governing bodies of municipal hospitals formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of *Part 2 of* Division 3 of Title 4 of the Government Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in ~~the~~ light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment

or until the expiration of the time for filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title ~~5~~ *4.5* (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title ~~5~~ *4.5* (commencing

with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency that issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision ~~(b)~~ *(c)* of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(i) Any administrative record received for filing by the clerk of the court may be disposed of as provided in Sections 1952, 1952.2, and 1952.3.

(j) Effective January 1, 1996, this subdivision shall apply to state employees in State Bargaining Unit 5. For purposes of this section, the court is not authorized to review any disciplinary decisions reached pursuant to Section 19576.1 of the Government Code.

SEC. 42. The heading of Part 9 (commencing with Section 10400) of Division 2 of Title 1 of the Corporations Code is amended to read:

PART 9. SOCIETIES FOR PREVENTION OF CRUELTY TO ~~CHILDREN AND~~ ANIMALS

SEC. 43. Section 10400 of the Corporations Code is amended to read:

10400. Corporations for the prevention of cruelty to animals may be formed under the Nonprofit Public Benefit Corporation Law~~, Part~~ *(Part* 2 (commencing with Section ~~5110) of this division~~ *5110))* by 20 or more persons, who shall be citizens and residents of this state. If the corporation is formed on or after January 1, 2011, its articles of incorporation shall specifically state that the corporation is being formed pursuant to this section.

SEC. 44. Section 10404 of the Corporations Code is amended to read:

10404. Any such corporation, or humane officer thereof, may proffer a complaint against any person, before any court or magistrate having jurisdiction, for the violation of any law relating to or affecting animals~~,~~ and may aid in the prosecution of the offender before the court or magistrate.

SEC. 45. Section 14501 of the Corporations Code is amended to read:

14501. Every society~~,~~ incorporated and organized for the prevention of cruelty to animals may enter into a contract with any city,~~ or~~ city and county, or county, where the society is located, to enforce the provisions of laws of this state for the prevention of cruelty to animals, or arresting~~,~~ or prosecuting offenders thereunder, or preventing cruelty to animals. A humane society may perform those actions in the absence of a contract with a city, city and county, or county.

SEC. 46. Section 14502 of the Corporations Code is amended to read:

14502. (a) (1) (A) (i) On and after July 1, 1996, no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to petition for confirmation of an appointment of any individual as a humane officer, the duty of

which shall be the enforcement of the laws for the prevention of cruelty to animals.

(ii) On and after July 1, 1996, only a person who meets the requirements of this section may be appointed as, or perform the duties of, a humane officer.

(iii) Any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing society maintains records pursuant to subparagraph (B) documenting that both the appointing society and the humane officer meet the requirements of this section.

(B) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a humane officer shall maintain complete and accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available, upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each humane officer.

(2) The humane society or society for the prevention of cruelty to animals shall possess insurance of at least one million dollars ($1,000,000) for liability for bodily injury or property damage.

(3) Each appointment of a humane officer shall be by separate resolution by the board of directors or trustees of the humane society or society for the prevention of cruelty to animals duly entered in its minutes. The resolution shall state the full name and address of the principal office of the appointing society, the full name of the person so appointed, the fact that he or she is a citizen of the State of California, that he or she has met the training requirements set forth in subdivision (h), and whether he or she is authorized to carry a weapon pursuant to this section. The resolution shall also designate the number of the badge to be allotted to the officer, and the date on which the term of office shall expire.

(b) A humane society or a society for the prevention of cruelty to animals seeking confirmation of a humane officer's appointment shall comply with each of the following provisions:

(1) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or

society for the prevention of cruelty to animals shall submit to the Department of Justice fingerprint images and related information of all humane officer applicants for the purposes of obtaining information as to the existence and content of a record of state convictions and state arrests and also information as to the existence and content of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(A) The Department of Justice shall provide a state response to the humane society or society for the prevention of cruelty to animals pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The humane society or society for the prevention of cruelty to animals shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons whose appointments are confirmed as described in subdivision (c).

(C) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this paragraph.

(2) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall serve a copy of the petition on each of the following:

(A) The police department having jurisdiction in the city in which the principal office of the appointing society is located.

(B) The sheriff's department having jurisdiction in the county in which the principal office of the appointing society is located.

(C) The Department of the California Highway Patrol.

(D) The State Humane Association of California.

(E) The Department of Justice.

(3) The humane society or society for the prevention of cruelty to animals shall file with the superior court in and for the county or city and county in which the principal office of the humane society is located a Petition for Order Confirming Appointment of a Humane Officer, and shall attach to the petition all of the following:

(A) A copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the society and attested by its seal.

(B) A copy of the criminal record offender information, if any, obtained regarding the person pursuant to paragraph (1).

(C) Proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2, including the date the articles of incorporation were filed with the Secretary of State.

(D) A copy of the society's liability insurance policy for bodily injury or property damage in the amount of at least one million dollars ($1,000,000).

(E) Documentation establishing that the appointee has satisfactorily completed the training requirements set forth in this section.

(F) Documentation establishing that the society has a written agreement with another entity, such as a public or private animal shelter or licensed veterinary clinic, that (i) provides for the humane care and treatment of any animals seized by the society, (ii) is capable of preserving evidence that may be used to prosecute an animal cruelty case, and (iii) is compliant with all applicable federal, state, and local laws, including licensing laws. Alternatively, the society may provide documentation that it is operating its own animal shelter that meets the requirements of clauses (i), (ii), and (iii).

(G) If the society has not previously appointed a humane officer:

(i) An affidavit signed under penalty of perjury from the president of the society that demonstrates the society's competence to appoint a humane officer by providing information, including, but not limited to, the following:

(I) Partnerships or collaborations, if any, with other nonprofit or community agencies.

(II) Cash reserve on hand, if any, to pay for veterinary expenses, housing, food, and care of seized animals.

(III) Established donor base, if any.

(IV) Current or prior law enforcement, legal, or other relevant experience, if any, of persons who will supervise the appointee.

(V) Current or prior experience of managers, if any, in operating a society or other nonprofit organization.

(VI) Statement that each board member is in good standing in the community and has not been convicted of a misdemeanor or felony involving animals.

(VII) Ongoing training beyond the minimum required for appointment of the humane officer, if any.

(VIII) The need for a humane officer in the society's county.

(IX) Any other documentation demonstrating compliance with applicable federal, state, or local laws.

(ii) Affidavits, if any, from personnel of local animal control agencies, law enforcement agencies, or other societies pertaining to the appointee's fitness to act as a humane officer.

(H) As the last page, proof of service of a copy of the petition upon those parties required to be served.

(4) Any party described in paragraph (2) may file an opposition to the petition described in paragraph (3). All papers filed in opposition to the petition and in reply to the opposition shall conform to law and motion pleading requirements, pursuant to Rule 3.1113(d) of the California Rules of Court. An opposition shall not exceed 15 pages and a reply shall not exceed 10 pages, excluding exhibits and declarations. The opposition shall be limited to the competency of the society to appoint and supervise a humane officer and the qualifications, background, and fitness of the appointee that are specific to the work of a humane officer.

(A) Any opposition shall be filed no later than 15 court days after the petition is filed with the court. Any opposition shall be served on all parties indicated on the proof of service attached to the petition.

(B) The petitioner's reply, if any, to the opposition shall be filed within 10 court days after service of the opposition. The reply shall be served on all parties listed in the proof of service attached to the petition and to any other person who has filed an opposition.

(C) The court shall rule on the petition without a hearing unless the court notifies the parties of an intention to hold a hearing.

(D) The petitioner shall serve a certified copy of the court's order ruling on the petition on all parties listed in the proof of service attached to the petition and to any other person or entity who has filed an opposition.

(c) (1) Upon receipt of the Petition for Order Confirming Appointment of a Humane Officer, the court shall first determine the society's date of incorporation, and the length of time between the date the society filed its articles of incorporation with the Secretary of State and the date it filed the petition described in paragraph (3) of subdivision (b) with the court. If the society was

incorporated on or after January 1, 2011, then the following shall apply:

(A) For a petition to confirm appointment of a level 1 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of five years has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

(B) For a petition to confirm appointment of a level 2 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of one year has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

(C) For a petition to confirm appointment of either a level 1 or level 2 humane officer, the court shall issue an order denying confirmation of the appointment if the society has not established, through submission of appropriate documentation, that the society is either operating its own animal shelter or has a written agreement with another entity, in compliance with subparagraph (F) of paragraph (3) of subdivision (b).

(2) If the court has not issued an order denying the petition pursuant to paragraph (1), then the court shall review the matter of the appointee's qualifications and fitness to act as a humane officer. The court shall also consider any documentation it has received in support of, or in opposition to, the confirmation of the person's appointment. If the court finds that the appointee is qualified and fit to act as a humane officer, the court shall issue an order confirming the appointment. The society shall thereupon file a certified copy of the court order in the office of the county clerk of the county or city and county in which the court is located. The appointee shall, at the same time, take and subscribe the oath of office prescribed for constables or other peace officers. The society shall also provide a copy of the Order Confirming Appointment to the State Humane Association of California and the Department of Justice. The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of Orders Confirming Appointment. If the court does not find the appointee qualified and fit to act as a humane officer, the court shall issue an order denying confirmation of the appointment.

(d) If the court grants the petition, the county clerk shall immediately enter in a book to be kept in his or her office and

designated "Record of Humane Officers" the name of the officer, the name of the society appointing him or her, the number of his or her badge, the date of the filing, and the case number of the court order confirming the appointment. At the time of the filing, the county clerk shall collect from the society a fee of five dollars ($5), which shall be full payment for all services to be performed by the county clerk under this section.

(e) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves.

(f) (1) The society appointing an officer may revoke an appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of the society and duly certified by its executive officer. Upon the filing, the county clerk shall enter the fact of the revocation and the date of the filing ~~thereof~~ *of the revocation* opposite the name of the officer in the ~~record of humane officers~~ *Record of Humane Officers*.

(2) Notwithstanding paragraph (1), any duly authorized sheriff or local police agency or the State Humane Association of California may initiate a revocation hearing by filing a petition to Revoke Appointment of a Humane Officer. The petition shall show cause why an appointment should be revoked and shall be made to the superior court in the jurisdiction of the appointment. Filing, service, and format of the petition and any oppositions and reply papers shall conform to the law and motion requirements under the Code of Civil Procedure, California Rules of Court, and this code. A proceeding pursuant to this paragraph shall be a special proceeding within the meaning of Section 23 of the Code of Civil Procedure.

(A) Notice of the hearing date and a copy of the petition shall be served in the same manner as a summons upon the humane officer subject to the petition, the society that appointed the officer, *and* the ~~agencies~~ *entities* and ~~association~~ *associations* described in paragraph (2) of subdivision (b); except the party filing the petition shall not be required to serve copies of those documents upon itself.

(B) Upon a finding of good cause, the court shall issue an order granting the petition to revoke the appointment. The county clerk shall immediately enter the revocation and the date of the court order opposite the name of the officer in the ~~record of humane~~

~~officers~~ *Record of Humane Officers*. The clerk of the superior court shall give notice of the order to the parties described in subparagraph (A) and to the county clerk-recorder.

(g) The society appointing the humane officer shall pay the training expenses of the humane officer attending the training required pursuant to this section.

(h) (1) (A) A level 1 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 1 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 1 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants.

(C) A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory completion of the training specified in subparagraph (D), if the requirements in subparagraph (F) are met.

(D) A level 1 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed the following requirements:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, *a* law enforcement agency, or the State Humane Association of California.

(iii) The basic training for a level 1 reserve officer by the Commission on Peace Officer Standards and Training pursuant to Section 13510.1 of the Penal Code.

(E) A person shall not be appointed as a level 1 humane officer until he or she meets the criteria in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background

investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines, for all level 1 humane officer appointments.

(F) (i) Notwithstanding any other provision of this section, a level 1 humane officer may carry a firearm only if authorized by, and only under the terms and conditions specified by, his or her appointing society.

(ii) Notwithstanding any other provision of this section, a level 1 humane officer shall not be authorized to carry a firearm unless and until his or her appointing society has adopted a policy on the use of deadly force by its officers and the officer has been instructed in that policy.

(2) (A) A level 2 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 2 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 2 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants during the course and within the scope of appointment, upon the successful completion of a course relating to the exercise of the police powers specified in Section 832 of the Penal Code, except the power to carry and use firearms.

(C) A level 2 humane officer is not authorized to carry firearms.

(D) A level 2 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) A person shall not be appointed as a level 2 humane officer until he or she has satisfied the requirements in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines, for all level 2 humane officer appointments.

(3) During each three-year period following the date on which the certified copy of the court order confirming the appointment of a humane officer was filed with the county clerk, the humane officer shall complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be sponsored or provided by an accredited postsecondary institution, *a* law enforcement agency, or the State Humane Association of California. A certificate of compliance shall be served no later than 21 days after the expiration of each three-year period on the Department of Justice with copies served on the superior court~~, agencies,~~ *and on the entities* and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(4) If the humane officer is authorized to carry a firearm, he or she shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (t) of Section 830.3 of the Penal Code. A certificate of compliance pursuant to this section shall be served no later than 21 days after the expiration of a six-month period on the Department of Justice with copies served on the superior court, and on the ~~agencies~~ *entities* and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee

sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice ~~no later than~~ *within* 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(i) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the society under this part of which he or she is an appointee which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of the appointing society. Humane officer uniforms shall not display the words "state" or "California," except to the extent that one or both of those words are part of the appointing society's incorporated name.

(j) Any person resisting a humane officer in the performance of his or her duty as provided in this section is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.

(k) No humane officer shall serve a search warrant without providing prior notice to local law enforcement agencies operating within that jurisdiction.

(*l*) Any humane society, society for the prevention of cruelty to animals, or person, who knowingly provides a court with false or forged documentation for the appointment of a humane officer~~,~~ is guilty of a misdemeanor and shall be punished by a fine of up to ten thousand dollars ($10,000).

(m) Except as otherwise provided by this section, a humane officer shall serve only in the county in which the court that appointed him or her sits. A humane officer may serve in another county if the humane officer gives notice requesting consent to

the sheriff of the county in which he or she intends to serve, and acquires consent from that sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall promptly respond to any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

SEC. 47. Section 14504 of the Corporations Code is amended to read:

14504. All humane societies and societies for the prevention of cruelty to animals, and all humane officers, shall be in full compliance with Section 14502 on or before January 1, 2012. Notwithstanding any other provision of this part, a level 1 or level 2 humane officer confirmed prior to January 1, 2012, shall not be required to seek a new court order confirming his or her appointment. However, a level 2 humane officer shall provide proof of compliance with subparagraph (E) of paragraph (2) of subdivision (h) of Section 14502 by filing a certificate of compliance with the Department of Justice on or before January 1, 2012, or that humane officer's appointment shall be immediately revoked.

SEC. 48. Section 1630 of the Education Code is amended to read:

1630. (a) The Superintendent shall review and consider studies, reports, evaluations, or audits of the county office of education that contain evidence that the county office of education is demonstrating fiscal distress according to the standards and criteria developed pursuant to Section 33127, or that contain a finding by an external reviewer that more than 3 of the 15 most common predictors of school agencies needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team, are present. If those findings are made, the Superintendent shall investigate the financial condition of the county office of education and determine if the county office of education may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative interim financial certification pursuant to Section 1240.

(b) If at any time during the fiscal year the Superintendent determines that the county office of education may be unable to meet its financial obligations for the current or two subsequent fiscal years, or if the county office has a qualified certification

pursuant to Section 1240, he or she shall notify the county board of education and the county superintendent in writing of that determination and the basis for the determination. The notification shall include the assumptions used in making the determination and shall be available to the public. The Superintendent shall do the following, as necessary, to ensure that the county office meets its financial obligations:

(1) Assign a fiscal expert, paid for by the Superintendent, to advise the county office on its financial problems.

(2) Conduct a study of the financial and budgetary conditions of the county office. If, in the course of this review, the Superintendent determines that his or her office requires analytical assistance or expertise that is not available through the county office, he or she may employ, at county office expense, on a short-term basis, staff, including certified public accountants, to provide the assistance and expertise.

(3) Direct the county office to submit a financial projection of all fund and cash balances of the county office as of June 30 of the current year and subsequent fiscal years as he or she requires.

(4) Require the county office to encumber all contracts and other obligations, to prepare appropriate cashflow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(5) Direct the county office to submit a proposal for addressing the fiscal conditions that resulted in the determination that the county office may not be able to meet its financial obligations.

(6) Withhold compensation of the county board of education and the county superintendent for failure to provide requested financial information.

(c) If, after taking the actions identified in subdivision (a), the Superintendent determines that a county office will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the county board of education and the county superintendent in writing of that determination and the basis for that determination. The notification shall include the assumptions used in making the determination and shall be available to the public.

(d) If the Superintendent of Public Instruction makes that determination, or if the county office has a negative certification pursuant to Section 1240, the Superintendent, shall, as necessary

to enable the county office to meet its financial obligations, do one or more of the following:

(1) Develop and impose, in consultation with the county board of education and the county superintendent, *a* budget that will enable the county to meet its financial obligations.

(2) Stay or rescind ~~any~~ *an* action that is determined to be inconsistent with the ability of the county office to meet its obligations for the current or subsequent fiscal year and may, as necessary, appoint a fiscal adviser to perform ~~any~~ *some* or all of the duties prescribed by this paragraph on his or her behalf. This includes ~~any~~ actions up to the point that the subsequent year's budget is approved by the Superintendent. The Superintendent shall inform the county board of education in writing of his or her justification for ~~any~~ *an* exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the county board of education and the county superintendent, a financial plan that will enable the county office to meet its future obligations.

(4) Assist in developing, in consultation with the county board of education and the county superintendent, a budget for the subsequent fiscal year. If necessary, the Superintendent shall continue to work with the county board of education and the county superintendent until the budget for the subsequent year is adopted.

(e) ~~Any actions~~ *Actions* taken by the Superintendent pursuant to paragraph (1) or (2) of subdivision (d) shall be accompanied by a notification that includes the actions to be taken, the reasons for the actions, and the assumptions used to support the necessity for those actions. That notification shall be available to the public.

(f) This section does not authorize the Superintendent to abrogate ~~any~~ *a* provision of a collective bargaining agreement that was entered into by a county office prior to the date upon which the Superintendent assumed authority pursuant to subdivision (d).

(g) The county office shall pay reasonable fees charged by the Superintendent for ~~any~~ administrative expenses incurred pursuant to subdivision (d) or costs associated with improving the office's financial management practices.

(h) Notwithstanding any other provision of law, a county treasurer shall not honor ~~any~~ *a* warrant when the Superintendent, as appropriate, has disapproved that warrant, or has disapproved the order on county office funds for which a warrant was prepared.

(i) For all purposes of errors and liability insurance policies, a fiscal expert appointed pursuant to this section shall be deemed to be an employee of the county office of education. The Superintendent may require that the fiscal adviser be placed on the county office of education payroll for the purposes of remuneration, benefits, and payroll deductions.

(j) If staff persons are hired pursuant to paragraph (2) of subdivision ~~(a)~~ *(b)*, the Superintendent may certify to the Controller an amount to be transferred to the State Department of Education, from the funds that otherwise would be apportioned to the county office of education pursuant to Section 2558, for the purpose of paying all costs incurred by that staff in performing their respective services. The Controller, upon receipt of that certification, shall transfer that amount.

(k) To facilitate the appointment of a county office fiscal officer and the employment of additional staff pursuant to paragraphs (1) and (2), respectively, of subdivision ~~(a)~~ *(b)*, for the purposes of those paragraphs, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of *Division 2 of* the Public ~~Contracts~~ *Contract* Code.

SEC. 49. Section 12001.6 of the Education Code is amended to read:

12001.6. (a) The Legislature hereby finds and declares that the federal tax credit bond volume cap for qualified school construction bonds designated to California by the federal American Recovery and Reinvestment Act of 2009 ~~(Public Law~~ *(P.L.* 111-5), together with Internal Revenue Service Notice 2010-17 issued pursuant thereto, does not constitute federal moneys, federal funds, or funds of any kind for any purpose under this code.

(b) The department is authorized to assign and distribute the state's 2010 federal tax credit bond volume cap for qualified school construction bonds to or for the benefit of school districts and county offices of education in the state.

(c) There is hereby assigned to the department six hundred fifty-one million six hundred fifty-two thousand dollars ($651,652,000) of the state's 2010 federal tax credit bond volume cap for qualified school construction bonds.

(1) A school district or county office of education may apply for the federal tax credit bond volume cap for qualified school construction bonds if the project is funded by local voter-approved bonds issued by the school district or bond anticipation notes as authorized by Section 15150. A county office of education and a school district with an enrollment of 2,500 or less may use other forms of financing with the submission of a resolution adopted by the county board of education or governing board of the school district authorizing the issuance of the financing.

(2) A school district or county office of education that received a 2009 allocation but did not make any issuance may apply for 2010 federal tax credit bond volume cap for qualified school construction bonds nine months after the effective date of this section.

(3) A school district or county office of education that received a 2009 or 2010 federal tax credit bond volume cap for qualified school construction bond allocation from the United States Department of the Treasury is not eligible to apply.

(4) Five business days after the enactment ~~of this legislation~~ *Section 2 of Chapter 266 of the Statutes of 2010*, the department shall post the application form on its Internet Web site.

(A) An application must be submitted via certified mail.

(B) An application shall not be postmarked until 30 business days after the enactment of ~~this legislation~~ *Section 2 of Chapter 266 of the Statutes of 2010*.

(C) An application shall include the total number of enrolled pupils who qualify for the federal free and reduced ~~priced~~ *price* meal program and the total overall pupil enrollment for the 2008–09 school year.

(5) An application not meeting the conditions set forth in paragraphs (1) and (4) shall be returned to the applicant.

(6) Applications meeting the conditions set forth in paragraphs (1) and (4) shall be accepted on a first-come-first-served basis by date of postmark. If this program is oversubscribed, order of allocation shall be established using the following criteria:

(A) First, earliest date of postmark.

(B) Second, the project for which the federal qualified school construction bond authorization will be applied received approval from the Division of the State Architect before the application was submitted.

(C) Third, the greater percentage of pupils who qualify for the federal free and reduced ~~priced~~ *price* meals program and are enrolled in the applying school district or county office of education in the 2008–09 school year. The department shall certify the number of pupils who qualify and the overall enrollment and calculate the percentage to the nearest one-hundredth of 1 percent.

(7) The department shall authorize the 2010 federal tax credit bond volume cap for qualified school construction bonds no sooner than December 1, 2010.

(8) The department shall maintain a waiting list of eligible school districts and county offices of education that did not receive an allocation in the order established pursuant to paragraph (6).

(9) An applicant may not apply for more than twenty-five million dollars ($25,000,000) of 2010 federal tax credit bond volume cap for qualified school construction bonds.

(10) A school district or county office of education applying for 2010 federal tax credit bond volume cap for qualified school construction bonds authorization shall certify in its application that it will fulfill all of the federal qualified school construction bond program requirements, including both of the following requirements:

(A) Within six months of the date of issuance, the school district or county office of education shall enter into a contract or contracts for use of an amount of bond proceeds equal to 10 percent of the authorization.

(B) Within three years of the date of issuance, the school district or county office of education shall spend 100 percent of the bond proceeds for a qualified purpose.

(11) Fifteen days after bond issuance, the school district or county office of education shall submit to the department a copy of the appropriate federal Internal Revenue Service Form, Information Return for Tax-Exempt Bonds, as confirmation of issuance.

(12) Thirty days after the completion of the expenditure the recipient shall submit a completion report to the department. The completion report must be certified by the bond counsel of the school district or county office of education.

(13) If any or all of the federal qualified school construction bond authorizations to a school district or county office of education are not issued within six months from the date of

authorization, any or all unused federal qualified school construction bond authorizations shall revert to the department. No extensions shall be provided.

(A) The department shall reallocate any remaining federal qualified school construction bond allocation to school districts or county offices of education that were eligible and applied for the authorization but did not receive an allocation.

(B) Reverted 2010 federal tax credit bond volume cap for qualified school construction bonds shall be allocated to school districts or county offices of education pursuant to the order of priority established by paragraph (6).

(C) The department shall allocate reverted federal qualified school construction bond authorizations as they are available and until all are issued.

(d) The California School Finance Authority, established pursuant to Section 17172, is authorized to assign and distribute the state's 2010 federal tax credit bond volume cap for qualified school construction bonds to or for the benefit of charter schools, or to be further assigned and distributed to one or more issuers in the state for the benefit of charter schools, as determined by the authority.

(1) There is hereby assigned to the California School Finance Authority, established pursuant to Section 17172, sixty-eight million four hundred six thousand dollars ($68,406,000) of the state's 2010 federal tax credit bond volume cap for qualified school construction bonds, to be issued for the benefit of charter schools, or to be further assigned and distributed to one or more issuers in the state for the benefit of charter schools, as the authority shall determine.

(2) A charter school may apply for the federal qualified school construction bond volume cap if it meets all of the following criteria:

(A) The charter school is operated as, or is operated by, a nonprofit entity.

(B) The charter school has an approved charter in place that is current at the time of application and continuously through the date of bond issuance.

(C) The chartering authority certifies that the charter school is in good standing and is in compliance with the terms of its charter.

(D) The charter school provides the level of classroom-based instruction specified in paragraph (1) of subdivision (e) of Section 47612.5.

(E) The applicant has completed at least three full school years of instructional operation as a charter school as of the end of the previous school year.

(3) Five business days after the effective date of this section, the California School Finance Authority shall post the application form and fee schedule on its Internet Web site.

(4) An application shall not be postmarked until 30 business days after the effective date of this section.

(5) Following a review of all applications and a preliminary award of borrowing authority, the California School Finance Authority shall ask applicants to provide additional information as necessary for the issuance of the bonds.

(6) Applications that meet the conditions set forth in paragraph (2) shall be considered by the California School Finance Authority on a first-come-first-served basis by date of postmark. If the program is oversubscribed, staff shall present a priority list to the authority pursuant to paragraph (7).

(7) ~~In the event that~~ *If* the program is oversubscribed, priority shall be assigned first to those charter schools that are best able to demonstrate to the California School Finance Authority, in its sole discretion, that they will be capable of accessing the capital markets or be privately placed with an investor. The order of allocation shall be established using the following criteria:

(A) Applicants ~~who~~ *that* are able to obtain credit enhancement for a qualified school construction bond financing, including a bank letter of credit, ~~who~~ *or* contribute substantial equity to a project, or ~~who~~ are otherwise able to obtain investment-grade credit ratings shall receive priority over other applicants.

(B) ~~In the event that~~ *If* multiple applicants satisfy the criteria described in subparagraph (A), priority shall be assigned to applications with the earliest postmark date. An application that is hand delivered and does not have a postmark date will be ranked based on the time the application is received by the California School Finance Authority.

(8) Applicants shall not apply for more than twenty-five million dollars ($25,000,000) of qualified school construction bond authorization per project.

(9) Subsequent application cycles may be considered if borrowing authority for qualified school construction bonds remains available after the initial application period.

(10) Subject to the sole discretion of the California School Finance Authority, ~~any~~ authorization to borrow qualified school construction bond proceeds is contingent on the issuance of the qualified school construction bonds by December 31, 2011, after which time the authorization expires and the authority may allocate the authorization to another qualified applicant.

(11) The California School Finance Authority shall allocate reverted federal qualified school construction bond authorization as it becomes available and until all of the authorization is issued.

(12) If an applicant uses any federal tax credit bond volume cap in conjunction with a bond that will serve as a local match for purposes of the Charter School Facilities Program established by Section 17078.52, the applicant, in addition to the requirements of this section, shall comply with all of the requirements of the Charter School Facilities Program.

SEC. 50. Section 17250.30 of the Education Code is amended to read:

17250.30. (a) Any design-build entity that is selected to design and build a project pursuant to this chapter shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract. This chapter does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(b) Any payment or performance bond written for the purposes of this chapter shall use a bond form developed by the Department of General Services pursuant to subdivision (g) of Section 14661 of the Government Code. The purpose of this subdivision is to promote uniformity of bond forms to be used on school district design-build projects throughout the state.

(c) (1) All subcontracts that were not listed by the design-build entity in accordance with Section 17250.25 shall be awarded by the design-build entity.

(2) The design-build entity shall do ~~all~~ *both* of the following:

(A) Provide public notice of the availability of work to be subcontracted.

(B) Provide a fixed date and time on which the subcontracted work will be awarded.

(3) Subcontractors bidding on contracts pursuant to this subdivision shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

(4) (A) If the school district elects to award a project pursuant to this section, retention proceeds withheld by the school district from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(B) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the school district and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the school district and the design-build entity from any payment made by the design-build entity to the subcontractor.

(5) In accordance with the provisions of applicable state law, the design-build entity may be permitted to substitute securities in lieu of the withholding from progress payments. Substitutions shall be made in accordance with Section 22300 of the Public Contract Code.

(d) (1) For contracts awarded prior to the effective date of either the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code or the fees established by the department pursuant *to* paragraph (2), the school district shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the

requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the school district or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

(2) For contracts awarded on or after the effective date of both the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code and the fees established by the department pursuant to this paragraph, the school district shall pay a fee to the department, in an amount that the department shall establish, and as it may from time to time amend, sufficient to support the department's costs in ensuring compliance with and enforcing prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.

(3) The Department of Industrial Relations may waive the fee set forth in paragraph (2) for a school district that has previously been granted approval by the director to initiate and operate a labor compliance program on the district's projects, and that requests to continue to operate that labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55. The fee shall not be waived for a district that contracts with a third party to initiate and enforce labor compliance programs on the district's projects.

SEC. 51. Section 37222 of the Education Code is amended to read:

37222. (a) On each day designated and set apart as a day having special significance, all public schools and educational institutions are encouraged to observe that day and to conduct suitable commemorative exercises.

(b) It is the intent of the Legislature that the exercises encouraged by ~~this section~~ *subdivision (a)* be integrated into the regular school program, and be conducted by the school or institution within the amount *of time* otherwise budgeted for educational programs.

SEC. 52. Section 37222.10 of the Education Code, as added by Section 3 of Chapter 114 of the Statutes of 2010, is repealed.

~~37222.10. (a) The second Wednesday in May is designated and set apart as the Day of the Teacher, a day having special significance pursuant to Section 37222.~~

~~(b) On the Day of the Teacher, all public schools and educational institutions are encouraged to conduct exercises commemorating and directing attention to teachers and the teaching profession.~~

SEC. 53. Section 37222.10 of the Education Code, as added by Section 3 of Chapter 115 of the Statutes of 2010, is repealed.

~~37222.10. (a) The second Wednesday in May is designated and set apart as the Day of the Teacher, a day having special significance pursuant to Section 37222.~~

~~(b) On the Day of the Teacher, all public schools and educational institutions are encouraged to conduct exercises commemorating and directing attention to teachers and the teaching profession.~~

SEC. 54. Section 37222.11 of the Education Code, as added by Section 4 of Chapter 114 of the Statutes of 2010, is repealed.

~~37222.11. (a) April 21 of each year is designated and set apart as John Muir Day, a day having special significance pursuant to Section 37222.~~

~~(b) On John Muir Day, all public schools and educational institutions are encouraged to conduct exercises stressing the importance that an ecologically sound natural environment plays in the quality of life for all of us, and emphasizing John Muir's significant contributions to the fostering of that awareness and the indelible mark he left on the State of California.~~

SEC. 55. Section 37222.11 of the Education Code, as added by Section 4 of Chapter 115 of the Statutes of 2010, is repealed.

~~37222.11. (a) April 21 of each year is designated and set apart as John Muir Day, a day having special significance pursuant to Section 37222.~~

~~(b) On John Muir Day, all public schools and educational institutions are encouraged to conduct exercises stressing the importance that an ecologically sound natural environment plays in the quality of life for all of us, and emphasizing John Muir's significant contributions to the fostering of that awareness and the indelible mark he left on the State of California.~~

SEC. 56. Section 37222.12 of the Education Code, as added by Section 5 of Chapter 114 of the Statutes of 2010, is repealed.

~~37222.12. (a) April 6 of each year is designated and set apart as California Poppy Day, a day having special significance pursuant to Section 37222.~~

~~(b) On California Poppy Day, all public schools and educational institutions are encouraged to conduct exercises honoring the California Poppy, including instruction about native plants, particularly the California Poppy, and the economic and aesthetic value of wildflowers; promoting responsible behavior toward our natural resources and a spirit of protection toward them; and emphasizing the value of natural resources and conservation of natural resources.~~

SEC. 57. Section 37222.12 of the Education Code, as added by Section 5 of Chapter 115 of the Statutes of 2010, is repealed.

~~37222.12. (a) April 6 of each year is designated and set apart as California Poppy Day, a day having special significance pursuant to Section 37222.~~

~~(b) On California Poppy Day, all public schools and educational institutions are encouraged to conduct exercises honoring the California Poppy, including instruction about native plants, particularly the California Poppy, and the economic and aesthetic value of wildflowers; promoting responsible behavior toward our natural resources and a spirit of protection toward them; and emphasizing the value of natural resources and conservation of natural resources.~~

SEC. 58. Section 37222.13 of the Education Code, as added by Section 6 of Chapter 114 of the Statutes of 2010, is repealed.

~~37222.13. (a) May 22 of each year is designated and set apart as Harvey Milk Day, a day having special significance pursuant to Section 37222.~~

~~(b) On Harvey Milk Day, all public schools and educational institutions are encouraged to conduct exercises remembering the life of Harvey Milk, recognizing his accomplishments, and familiarizing pupils with the contributions he made to this state.~~

SEC. 59. Section 37222.13 of the Education Code, as added by Section 6 of Chapter 115 of the Statutes of 2010, is repealed.

~~37222.13. (a) May 22 of each year is designated and set apart as Harvey Milk Day, a day having special significance pursuant to Section 37222.~~

~~(b) On Harvey Milk Day, all public schools and educational institutions are encouraged to conduct exercises remembering the~~

~~life of Harvey Milk, recognizing his accomplishments, and familiarizing pupils with the contributions he made to this state.~~

SEC. 60. Section 37222.14 of the Education Code, as added by Section 7 of Chapter 114 of the Statutes of 2010, is repealed.

~~37222.14. (a) March 30 of each year is designated and set apart as Welcome Home Vietnam Veterans Day, a day having special significance pursuant to Section 37222.~~

~~(b) On Welcome Home Vietnam Veterans Day, all public schools and educational institutions are encouraged to conduct exercises recognizing the contributions of all those involved in the Vietnam War and remembering the sacrifices they made for their country.~~

SEC. 61. Section 37222.14 of the Education Code, as added by Section 7 of Chapter 115 of the Statutes of 2010, is repealed.

~~37222.14. (a) March 30 of each year is designated and set apart as Welcome Home Vietnam Veterans Day, a day having special significance pursuant to Section 37222.~~

~~(b) On Welcome Home Vietnam Veterans Day all public schools and educational institutions are encouraged to conduct exercises recognizing the contributions of all those involved in the Vietnam War and remembering the sacrifices they made for their country.~~

SEC. 62. Section 41203 of the Education Code, as added by Section 8 of Chapter 83 of the Statutes of 1989, is amended to read:

41203. Any calculation of the ~~monies~~ *moneys* to be applied by the state for the support of school districts and community college districts, pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, shall be made as a single, aggregate calculation for the school districts serving kindergarten and grades 1 to 12, inclusive, for the community college districts, and for the direct elementary and secondary level instructional services provided by the State of California.

SEC. 63. Section 41204 of the Education Code, as amended by Section 26 of Chapter 427 of the Statutes of 1992, is amended to read:

41204. (a) It is the intent of the Legislature, pursuant to "The Classroom Instructional Improvement and Accountability Act," that school districts, as defined in Section 41302.5, and community college districts, as constituted during *the* 1986–87 fiscal year, annually receive a basic minimum portion of the revenues that is

equivalent to the percentage of revenues that were deposited to the General Fund in that year.

(b) In recognition of this intent, it is further the intent of the Legislature that both houses and the Governor be guided by the following:

(1) If the revenues of a tax that were deposited in the General Fund in the 1986–87 fiscal year are redirected to another fund, or level of government, then the percentages of General Fund revenues required to be applied by the state for the support of school districts, community college districts, and state agencies providing direct elementary and secondary level instructional services shall be recalculated as if those revenues were not deposited in the General Fund in the 1986–87 fiscal year.

(2) If the allocated local proceeds of taxes, as defined by subdivisions (g) and (h) of Section 41202, received by a school district or community college district during the 1986–87 fiscal year are redirected to other entities or statutorily or constitutionally reduced or eliminated, the additional General Fund support provided to replace the allocated local proceeds of taxes may not be counted as General Fund revenues required to be applied for the support of school districts, community college districts, and state agencies providing direct elementary and secondary level instructional services pursuant to paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, unless the percentage of General Fund revenues appropriated to school districts, community college districts, and state agencies providing direct elementary and secondary level instructional services in the 1986–87 fiscal year is adjusted to reflect the amount of General Fund support that would have been provided in the 1986–87 fiscal year had the allocated local proceeds of taxes been correspondingly reduced.

(3) If a program of a school district, as defined in Section 41302.5, or of a community college district was supported by state funds from a source other than the General Fund during the 1986–87 fiscal year and General Fund moneys are subsequently provided in support of the program and in lieu of the other source of funds, the supplanting General Fund revenues shall not be counted as ~~monies~~ *moneys* to be applied by the state for the support of school districts or community college districts pursuant to

subdivision (b) of Section 8 of Article XVI of the California Constitution.

(c) Programs that existed in the 1986–87 fiscal year, and were not the functional responsibility of school districts or community college districts in that fiscal year, shall not be shifted to the responsibility or financial support of school districts or community college districts without appropriate corresponding adjustment to the calculations made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution. Nothing in this subdivision shall be construed to prevent the creation of a new educational program that is supported by a General Fund appropriation made in conformity with subdivision (b) of Section 8 of Article XVI of the California Constitution.

(d) Enrollment, average daily attendance, or average daily attendance equivalents used for the purpose of calculating "increases in enrollment" pursuant to paragraph (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution shall not be redefined, adjusted, or otherwise recalculated unless the appropriate action is taken to neutralize the effect of the change with respect to the adjustment required to be made for increases in enrollment.

SEC. 64. Section 41320.1 of the Education Code is amended to read:

41320.1. Acceptance by the district of the apportionments made pursuant to Section 41320 constitutes the agreement by the district to all of the following conditions:

(a) The Superintendent of Public Instruction shall appoint a trustee who has recognized expertise in management and finance and may employ, on a short-term basis, any staff necessary to assist the trustee, including, but not limited to, certified public accountants, as follows:

(1) The expenses incurred by the trustee and any necessary staff shall be borne by the district.

(2) The Superintendent shall establish the terms and conditions of the employment, including the remuneration of the trustee. The trustee shall serve at the pleasure of, and report directly to, the Superintendent.

(3) The trustee, and any necessary staff, shall serve until the loan authorized by this section is repaid, the district has adequate fiscal systems and controls in place, and the Superintendent has

determined that the district's future compliance with the fiscal plan approved for the district under Section 41320 is probable. The Superintendent shall notify the county superintendent of schools, the Legislature, the Department of Finance, and the Controller no less than 60 days prior to the time that the Superintendent expects these conditions to be met.

(4) Before the district repays the loan, including interest, the recipient of the loan shall select an auditor from a list established by the Superintendent and the Controller to conduct an audit of its fiscal systems. If the fiscal systems are deemed to be inadequate, the Superintendent may retain the trustee until the deficiencies are corrected. The cost of this audit and any additional cost of the trustee shall be borne by the district.

(5) Notwithstanding any other law, all reports submitted to the trustee are public records.

(6) To facilitate the appointment of the trustee and the employment of any necessary staff, for the purposes of this section, the Superintendent is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of *Division 2 of* the Public ~~Contracts~~ *Contract* Code.

(7) Notwithstanding any other law, the Superintendent may appoint an employee of the department to act as trustee for up to the duration of the trusteeship. The salary and benefits of that employee shall be established by the Superintendent and paid by the school district. During the time of appointment, the employee is an employee of the school district, but shall remain in the same retirement system under the same plan as if the employee had remained in the department. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the department. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the department.

(b) The trustee appointed by the Superintendent shall monitor and review the operation of the district. During the period of his or her service, the trustee may stay or rescind any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district. The

Superintendent may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the district. The trustee shall approve or reject all reports and other materials required from the district as a condition of receiving the apportionment. The Superintendent, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount up to two hundred dollars ($200) per day for each late or unacceptable report or other material required under ~~Part 24 (commencing with Section 41000)~~ *this part*, and shall report to the Legislature any failure of the district to comply with the requirements of this section. If the Superintendent determines, at any time, that the fiscal plan approved for the district under Section 41320 is unsatisfactory, he or she may modify the plan as necessary, and the district shall comply with the plan as modified.

(c) At the request of the Superintendent, the Controller shall transfer to the department, from ~~any~~ *an* apportionment to which the district would otherwise have been entitled pursuant to Section 42238, the amount necessary to pay the expenses incurred by the trustee and ~~any~~ associated costs incurred by the county superintendent of schools.

(d) For the fiscal year in which the apportionments are disbursed and each year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, in lieu of the audit required by Section 41020. At the Controller's discretion, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the district and approved by the Controller. The costs of these audits shall be borne by the district. These audits shall be required until the Controller determines, in consultation with the Superintendent, that the district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including interest. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2.

(e) For all purposes of errors and omissions liability insurance policies, the trustee appointed pursuant to this section is an employee of the local education agency to which he or she is assigned. For the purpose of workers' compensation benefits, the trustee is an employee of the local education agency to which he

or she is assigned, except that a trustee appointed pursuant to paragraph (7) of subdivision (a) is an employee of the department for that purpose.

(f) Except for an individual appointed by the Superintendent as trustee pursuant to paragraph (7) of subdivision (a), the state-appointed trustee is a member of the State Teachers' Retirement System, if qualified, for the period of service as trustee, unless the trustee elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the trustee chooses to become a member or is already a member, the trustee shall be placed on the payroll of the school district for the purposes of providing appropriate contributions to the system. The Superintendent may also require that any individual appointed as trustee pursuant to paragraph (7) of subdivision (a) be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions. For the purpose of workers' compensation benefits, the state-appointed trustee is deemed an employee of the local education agency to which he or she is assigned, except that a trustee who is appointed pursuant to paragraph (7) of subdivision (a) is an employee of the department for that purpose.

SEC. 65. Section 41326 of the Education Code is amended to read:

41326. (a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that district under the standards and criteria adopted pursuant to Section 33127 constitutes the agreement by the district to the conditions set forth in this article. Prior to applying for an emergency apportionment in the amount identified in this subdivision, a school district governing board shall discuss the need for that apportionment at a regular or special meeting of the governing board and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the district, and other members of the community. For purposes of this article, "qualifying school district" means a school district that accepts a loan as described in this subdivision.

(b) The Superintendent shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent, in consultation with the county superintendent of schools, shall appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision in accordance with all of the following:

(1) The administrator shall serve under the direction and supervision of the Superintendent until terminated by the Superintendent at his or her discretion. The Superintendent shall consult with the county superintendent of schools before terminating the administrator.

(2) The administrator shall have recognized expertise in management and finance.

(3) To facilitate the appointment of the administrator and the employment of any necessary staff, for the purposes of this section, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of *Division 2 of* the Public ~~Contracts~~ *Contract* Code.

(4) Notwithstanding any other law, the Superintendent may appoint an employee of the state or the office of the county superintendent of schools to act as administrator for up to the duration of the administratorship. During the tenure of his or her appointment, the administrator, if he or she is an employee of the state or the office of the county superintendent of schools, is an employee of the school district, but shall remain in the same retirement system under the same plan that has been provided by his or her employment with the state or the office of the county superintendent of schools. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the state or the office of the county superintendent of schools. The time served in the appointment shall be counted for all purposes as if the administrator had served that time in his or her former position with the state or the office of the county superintendent of schools.

(5) Except for an individual appointed as an administrator by the Superintendent of Public Instruction pursuant to paragraph (4), the administrator shall be a member of the State Teachers'

Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the school district for the purposes of providing appropriate contributions to the system. The Superintendent may also require the administrator to be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions.

(6) For the purposes of workers' compensation benefits, the administrator is an employee of the qualifying district, except that an administrator appointed pursuant to paragraph (4) may be deemed an employee of the state or office of the county superintendent of schools, as applicable.

(7) The qualifying district shall add the administrator as a covered employee of the school district ~~all~~ for *all* purposes of errors and omissions liability insurance policies.

(8) The salary and benefits of the administrator shall be established by the Superintendent of Public Instruction and paid by the qualifying school district.

(9) The Superintendent or the administrator may, on a short-term basis, employ at district expense any staff necessary to assist the administrator, including, but not limited to, a certified public accountant.

(10) The administrator may do all of the following:

(A) Implement substantial changes in the fiscal policies and practices of the district, including, if necessary, the filing of a petition under Chapter 9 ~~of the federal Bankruptcy Code~~ *(commencing with Section 901) of Title 11 of the United States Code* for the adjustment of indebtedness.

(B) Revise the educational program of the district to reflect realistic income projections and pupil performance relative to state standards.

(C) Encourage all members of the school community to accept a fair share of the burden of the fiscal recovery of the district.

(D) Consult, for the purposes described in this subdivision, with the governing board of the school district, the exclusive

representatives of the employees of the district, parents, and the community.

(E) Consult with, and seek recommendations from, the Superintendent, county superintendent of schools, and the County Office Fiscal Crisis and Management Assistance Team authorized pursuant to subdivision (c) of Section 42127.8 for the purposes described in this article.

(F) With the approval of the Superintendent, enter into agreements on behalf of the district and, subject to any contractual obligation of the district, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in Sections 41327 and 41327.1.

(c) (1) For the period of time during which the Superintendent of Public Instruction exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, and has no rights, duties, or powers, and is not entitled to any stipend, benefits, or other compensation from the district.

(2) Upon the appointment of an administrator pursuant to this section, the district superintendent of schools is no longer an employee of the district.

(3) A determination of the severance compensation for the district superintendent shall be made pursuant to subdivision (j).

(d) Notwithstanding Section 35031 or any other law, the administrator may, after according the employee reasonable notice and the opportunity for a hearing, terminate the employment of any deputy, associate, assistant superintendent of schools, or any other district level administrator who is employed by a school district under a contract of employment signed or renewed after January 1, 1992, if the employee fails to document, to the satisfaction of the administrator, that prior to the date of the acceptance of the apportionment he or she either advised the governing board of the district, or his or her superior, that actions contemplated or taken by the governing board could result in the fiscal insolvency of the district, or took other appropriate action to avert that fiscal insolvency.

(e) The authority of the Superintendent, and the administrator, under this section shall continue until all of the following occur:

(1) (A) ~~At any time after~~ *After* one complete fiscal year has elapsed following the district's acceptance of a loan as described in subdivision (a), the administrator determines, and so notifies the Superintendent and the county superintendent of schools, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(B) The Superintendent may return power to the governing board for any area listed in subdivision (a) of Section 41327.1 if performance under the recovery plan for that area has been demonstrated to the satisfaction of the Superintendent.

(2) The Superintendent has approved all of the recovery plans referred to in subdivision (a) of Section 41327 and the County Office Fiscal Crisis and Management Assistance Team completes the improvement plans specified in Section 41327.1 and has completed a minimum of two reports identifying the district's progress in implementing the improvement plans.

(3) The administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The district has completed all reports required by the Superintendent and the administrator.

(5) The Superintendent determines that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(f) When the conditions stated in subdivision (e) have been met, and at least 60 days after the Superintendent of Public Instruction has notified the Legislature, the Department of Finance, the Controller, and the county superintendent of schools that he or she expects the conditions prescribed pursuant to this section to be met, the school district governing board shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent shall appoint a trustee under Section 41320.1 to monitor and review the operations of the district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), if the district violates any provision of the recovery plans approved by the Superintendent pursuant to this article within five years after the trustee appointed pursuant to Section 41320.1 is removed, the Superintendent may reassume, either directly or through an administrator appointed in

accordance with this section, all of the legal rights, duties, and powers of the governing board of the district. The Superintendent shall return to the school district governing board all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(h) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(i) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the district, the impact of the recovery plans upon the district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the district.

(j) (1) The district superintendent is entitled to a due process hearing for purposes of determining final compensation. The final compensation of the district superintendent shall be between zero and six times his or her monthly salary. The outcome of the due process hearing shall be reported to the Superintendent of Public Instruction and the public. The information provided to the public shall explain the rationale for the compensation.

(2) This subdivision applies only to a contract for employment negotiated on or after June 21, 2004.

(k) (1) When the Superintendent assumes control over a school district pursuant to subdivision (b), he or she shall, in consultation with the County Office Fiscal Crisis and Management Assistance Team, review the fiscal oversight of the district by the county superintendent of schools. The Superintendent may consult with other fiscal experts, including other county superintendents of schools and regional fiscal teams, in conducting this review.

(2) Within three months of assuming control over a qualifying district, the Superintendent shall report his or her findings to the Legislature and shall provide a copy of that report to the Department of Finance. This report shall include findings as to fiscal oversight actions that were or were not taken and may include recommendations as to an appropriate legislative response to improve fiscal oversight.

(3) If after performing the duties described in paragraphs (1) and (2), the Superintendent determines that the county superintendent of schools failed to carry out his or her responsibilities for fiscal oversight as required by this code, the Superintendent may exercise the authority of the county superintendent of schools who has oversight responsibilities for a qualifying school district. If the Superintendent finds, based on the report required in paragraph ~~(1)~~ *(2)*, that the county superintendent of schools failed to appropriately take into account particular types of indicators of financial distress, or failed to take appropriate remedial actions in the qualifying district, the Superintendent shall further investigate whether the county superintendent of schools failed to take into account those indicators, or similarly failed to take appropriate actions in other districts with negative or qualified certifications, and shall provide an additional report on the fiscal oversight practices of the county superintendent to the appropriate policy and fiscal committees of each house of the Legislature and the Department of Finance.

SEC. 66. Section 41500 of the Education Code is amended to read:

41500. (a) Notwithstanding any other provision of law, a school district and county office of education may expend in a fiscal year up to 15 percent of the amount apportioned for the block grants set forth in Article 3 (commencing with Section 41510), Article 5 (commencing with Section 41530), Article 6 (commencing with Section 41540), or Article 7 (commencing with Section 41570) for any other programs for which the school district or county office is eligible for funding, including programs whose funding is not included in any of the block grants established pursuant to this chapter. The total amount of funding a school district or county office of education may expend for a program to which funds are transferred pursuant to this section ~~may~~ *shall* not exceed 120 percent of the amount of state funding allocated to the school district or county office *of education* for purposes of that program in a fiscal year. For purposes of this subdivision, "total amount" means the amount of state funding allocated to a school district or county office *of education* for purposes of a particular program in a fiscal year plus the amount transferred in that fiscal year to that program pursuant to this section.

(b) A school district that transfers funding, pursuant to this section, from the amount apportioned for the School and Library Improvement Block Grant, as set forth in Article 7 (commencing with Section 41570), shall utilize no less than 85 percent of the amount remaining after the transfer for direct services to pupils.

(c) A school district and county office of education shall not, pursuant to this section, transfer funds from Article 2 (commencing with Section 41505) and Article 4 ~~(commending~~ *(commencing* with Section 41520).

(d) Before a school district or county office of education may expend funds pursuant to this section, the governing board of the school district or the county board of education, as applicable, shall discuss the matter at a noticed public meeting.

(e) A school district shall track transfers made pursuant to this section.

SEC. 67. Section 44237 of the Education Code is amended to read:

44237. (a) Every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level shall require each applicant for employment in a position requiring contact with minor pupils who does not possess a valid credential issued by the commission or is not currently licensed by another state agency that requires a criminal record summary that directly relates to services provided in a facility described in this section and has background clearance criteria that meets or exceeds the requirements of this section, to submit two sets of fingerprints prepared for submittal by the employer to the Department of Justice for the purpose of obtaining criminal record summary information from the Department of Justice and the Federal Bureau of Investigation.

(b) (1) As used in this section, “employer” means every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level.

(2) As use in this section, “employment” means the act of engaging the services of a person, who will have contact with pupils, to work in a position at a private school at the elementary or high school level on or after September 30, 1997, on a regular, paid full-time basis, regular, paid part-time basis, or paid full- or part-time seasonal basis.

(3) As used in this section, "applicant" means any person who is seriously being considered for employment by an employer.

(4) This section does not apply to a secondary school pupil working at the school he or she attends or a parent or legal guardian working exclusively with his or her children.

(c) (1) Upon receiving the identification cards, the Department of Justice shall ascertain whether the applicant has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the ~~department~~ *Department of Justice* and forward the information to the employer submitting the fingerprints no more than 15 working days after receiving the identification cards. The Department of Justice shall not forward information regarding criminal proceedings that did not result in a conviction but shall forward information on arrests pending adjudication.

(2) Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the Department of Justice shall ascertain the information required pursuant to this subdivision within three working days. If the Department of Justice cannot ascertain the information required pursuant to this subdivision within three working days, the ~~department~~ *Department of Justice* shall notify the employer submitting the fingerprints that it cannot so ascertain the required information. This notification shall be delivered by telephone or ~~electronic mail~~ *e-mail* to the employer submitting the fingerprints. If the employer submitting the fingerprints is notified by the Department of Justice that it cannot ascertain the required information about a person, the employer ~~may~~ *shall* not employ that person until the Department of Justice ascertains that information.

(3) The Department of Justice shall review the criminal record summary it obtains from the Federal Bureau of Investigation to ascertain whether an applicant for employment has a conviction, or an arrest pending final adjudication, for any sex offense, controlled substance offense, crime of violence, or serious or violent felony. The Department of Justice shall provide written notification to the private school employer only as to whether an applicant for employment has any convictions, or arrests pending final adjudication, for any of these crimes.

(d) An employer shall not employ a person until the Department of Justice completes its check of the state criminal history file as set forth in this section.

(e) (1) An employer shall not employ a person who has been convicted of a violent or serious felony or a person who would be prohibited from employment by a public school district pursuant to any provision of this code because of his or her conviction for any crime.

(2) A person who would be prohibited from employment by a private school pursuant to paragraph (1) may not, on or after July 1, 1999, own or operate a private school offering instruction on the elementary or high school level.

(f) An employer shall request subsequent arrest service from the Department of Justice as provided under Section 11105.2 of the Penal Code.

(g) This section applies to any violent or serious offense which, if committed in this state, would have been punishable as a violent or serious felony.

(h) For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

(i) Notwithstanding subdivision (e), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(j) Notwithstanding subdivision (e), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a serious felony that is not also a violent felony if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of school employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the county in which he or she is a resident.

(k) The commission shall make available to each private school a listing of all credentialholders who have had final adverse action

taken against their credential. The information shall be identical to that made available to public schools in the state. The commission shall also send on a quarterly basis a complete and updated list of all teachers who have had their teaching credentials revoked or suspended, excluding teachers who have had their credentials reinstated, or who are deceased.

(*l*) The Department of Justice may charge a reasonable fee to cover costs associated with the processing, reviewing, and supplying of the criminal record summary as required by this section. ~~In no event shall the fee~~ *The fee shall not* exceed the actual costs incurred by the ~~department~~ *Department of Justice*.

(m) Where reasonable access to the statewide~~,~~ electronic fingerprinting network is available, the Department of Justice may mandate electronic submission of the fingerprints and related information required by this section.

(n) All information obtained from the Department of Justice is confidential. Agencies handling Department of Justice information shall ensure the following:

(1) ~~No~~ *A* recipient shall *not* disclose its contents or provide copies of information.

(2) Information received shall be stored in a locked file separate from other files, and shall only be accessible to the custodian of records.

(3) Information received shall be destroyed upon the hiring determination in accordance with subdivision (a) of Section 708 of Title 11 of the California Code of Regulations.

(4) Compliance with destruction, storage, dissemination, auditing, backgrounding, and training requirements as set forth in Sections 700 ~~through~~ *to* 708, inclusive, of Title 11 of the California Code of Regulations and Section 11077 of *the* Penal Code governing the use and security of criminal offender record information is the responsibility of the entity receiving the information from the Department of Justice.

SEC. 68. Section 45330 of the Education Code is amended to read:

45330. (a) As used in this section, a paraprofessional means a person who assists classroom teachers and other certificated personnel in instructing reading, writing, and mathematics. A paraprofessional includes an instructional aide as defined in

subdivision (a) of Section 45343 and a teacher aide as described in Section 45360.

(b) A paraprofessional shall perform only duties that, in the ~~judgement~~ *judgment* of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to pupils.

(c) Pursuant to the federal No Child Left Behind Act of 2001 (P.L. 107-110), a local education agency that receives funding from Title ~~1~~ *I* of that act shall ensure that every paraprofessional hired on or after January 8, 2002, who is supported by those Title ~~1~~ *I* funds and who assists in instruction has demonstrated at least one of the following in addition to any other requirements under that act:

(1) Completion of at least two years of study at an institution of higher education.

(2) Possession of an associate's degree or higher.

(3) Through a local or state assessment, that is appropriate to the responsibilities to be assigned to the paraprofessional, knowledge of, and ability to assist in, instructing reading, writing, and mathematics.

(d) Except as provided in subdivision (h), a paraprofessional hired prior to January 8, 2002, who is supported by federal funds from Title I of the federal No Child Left Behind Act of 2001 (P.L. 107-110) shall meet the requirements of subdivision (c) no later than January 8, 2006.

(e) No person shall be initially assigned to assist in instruction as a paraprofessional in kindergarten and grades 1 to 12, inclusive, unless the person has demonstrated proficiency in reading, writing, and mathematics skills up to or exceeding that required by the employing district for high school seniors pursuant to subdivisions (a) and (f) of Section 51220 if the employing district educates high school ~~students~~ *pupils*.

(f) If the employing district is an elementary school district, the paraprofessional shall demonstrate proficiency in reading, writing, and mathematics skills up to or exceeding that required for high school seniors pursuant to subdivisions (a) and (f) of Section 51220 in the high school district that includes all or the largest portion of the elementary district.

(g) In establishing the educational qualifications or in developing a proficiency exam, a school district shall align the qualifications and proficiency exams pursuant to paragraph (3) of subdivision (c).

(h) A paraprofessional who is supported by federal funds from Title I of the federal No Child Left Behind Act of 2001 (P.L. 107-110) and who meets either of the following conditions is exempt from the requirements described in paragraphs (1) to (3), inclusive, of subdivision (c):

(1) The paraprofessional is proficient in English and a language other than English and provides services primarily to enhance participation of pupils by acting as a translator.

(2) The paraprofessional's duties consist solely of conducting parental involvement activities.

(i) A paraprofessional who was hired on or before January 1, 2003, and who has previously demonstrated, through a local assessment, knowledge of, and an ability to assist in, instructing reading, writing, and mathematics, is deemed to have met the proficiency exam requirements of paragraph (3) of subdivision (c).

(j) A school district may use an existing proficiency assessment or may develop a new proficiency assessment to meet the requirements of paragraph (3) of subdivision (c).

(k) Pursuant to the federal No Child Left Behind Act of 2001 *(P.L. 107-110)*, a local education agency may use a portion of the funds from that act for staff development for paraprofessionals, to the extent that those funds are appropriated in the annual Budget Act for this purpose.

SEC. 69. Section 51223.3 of the Education Code is amended to read:

51223.3. (a) During the ~~next~~ *first* revision of the physical education framework *that occurs on or after January 1, 2011*, the state board and the Curriculum Development and Supplemental Materials Commission shall include self-defense instruction and safety instruction in that framework for pupils in grades 7, 8, 9, 11, and 12.

(b) As used in this section:

(1) "Safety instruction" includes, but is not necessarily limited to, awareness and avoidance of potentially dangerous situations.

(2) "Self-defense instruction" includes, but is not necessarily limited to, martial arts, boxing, and other defensive techniques.

SEC. 70. Section 51913 of the Education Code is amended to read:

51913. The plan for a comprehensive health education program shall include a statement setting forth the district's educational program for health education on a districtwide basis. The ~~State Board of Education~~ *state board* shall establish standards and criteria to be used in the evaluation of plans submitted by school districts. The standards and criteria for review and approval of plans by the ~~State Board of Education~~ *state board* shall include, but not be limited to, provision for:

(a) Assessment of the health educational needs of the pupils.

(b) Defined and measurable program objectives and methods of assessing the effectiveness of the program.

(c) Coordination of all district resources with the objectives of the plan.

(d) Utilization of health care professionals representing, at the school district's option, the varied fields of ~~heath~~ *health* care, including voluntary collaborations with managed health care and health care providers; local public and private health, safety, and community service agencies; and other appropriate community resources in the development and implementation of the plan.

(e) Direct participation of health care professionals representing, at the school district's option, the varied fields of health care, including voluntary collaborations with managed health care, health care providers, and local public and private health, safety, and community service agencies in the course evaluation.

(f) Staff development and in-service training.

(g) Evaluation of the program by the governing board of the school district with the assistance of administrators, teachers, parents, pupils, and participants in the program from the community.

SEC. 71. Section 66152 of the Education Code is amended to read:

66152. (a) The Trustees of the California State University shall not, and the Regents of the University of California are requested not to, allocate any student-imposed athletics fees that are collected from registered students for purposes of supporting intercollegiate athletics programs for any purpose that is not ~~and~~

in ~~the~~ amounts that ~~is~~ *are* not approved pursuant to the election approving the fees.

(b) At the end of each academic year, the Trustees of the California State University shall, and the Regents of the University of California are requested to, refund to each feepaying student a pro rata share of any portion of the student-imposed athletics fee that is collected and is not allocated for the approved purposes during that academic year.

SEC. 72. Section 66739.6 of the Education Code is amended to read:

66739.6. *(a)* In a manner that is consistent with Section 71027, the Office of the Chancellor of the California Community Colleges shall establish a process to facilitate the identification of courses that satisfy lower division preparation requirements throughout the California Community ~~College~~ *Colleges* system.

(b) A description of the process established by the Office of the Chancellor of the California Community Colleges to comply with subdivision (a) shall be included as part of the report required by subdivision (a) of Section 66749.

(c) It is the intent of the Legislature that community college districts accept credits from other community college districts toward an associate degree for transfer.

(d) This section shall become operative on July 1, 2011.

SEC. 73. Section 67365 of the Education Code is amended to read:

67365. (a) For purposes of this section, the following definitions shall apply:

(1) "Athletic program" means any intercollegiate athletic program from a postsecondary educational institution in the State of California that solicits student athletes to apply, enroll, or attend the postsecondary educational institution in order to have the student athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) "Student athlete" means an individual who attends an elementary, junior high, high school, or postsecondary educational institution, and who participates in any interscholastic athletic program in California, including an individual who receives scholarship funds for his or her athletic participation and an individual who does not receive scholarship funds for his or her athletic participation.

(b) Commencing January 1, 2012, a California postsecondary educational institution that offers athletic scholarships shall provide all of the following information on its Internet Web site:

(1) All of the following athletic scholarship information:

(A) The most recent cost of attendance expenses as published by the postsecondary educational institution's financial aid offices for the academic year and for the summer year.

(B) The sum of expenses identified in subparagraph (A) that are prohibited from inclusion in a full grant-in-aid athletic scholarship pursuant to the National Collegiate Athletic Association's (NCAA) rules and regulations.

(C) The policy of the postsecondary educational institution's athletic program as to whether student athletes will receive athletic scholarships for summer school, and, if so, whether these scholarships are proportional to athletic scholarships received during the regular academic school year.

(D) The average monthly full grant-in-aid athletic scholarship payment received by student athletes who live on-campus and off-campus, respectively, during the regular academic year and summer school session.

(E) The following information relating to NCAA scholarship rules: "Pursuant to NCAA rules, a verbal commitment is not binding on either the student athlete or the institution. The National Letter of Intent is a binding agreement between a prospective student athlete and an institution in which the institution agrees to provide a prospective student athlete who is admitted to the institution and is eligible for financial aid under NCAA rules athletics aid for one academic year in exchange for the prospective student athlete's agreement to attend the institution for one academic year. The National Letter of Intent must be accompanied by an institutional financial aid agreement. If the prospective student athlete signs the National Letter of Intent but does not enroll at that institution for a full academic year, he or she may be subject to specific penalties, including loss of a season of eligibility and a mandatory residence requirement."

(2) All of the following athletic scholarship renewal information:

(A) The NCAA's policy on scholarship duration.

(B) The policy of the postsecondary educational institution's athletic program concerning the renewal or nonrenewal of an athletic scholarship, including circumstances in which a student

athlete in good standing suffers a temporary or permanent sports-related injury, there is a coaching change, or a student athlete's athletic performance is deemed to be below expectations.

(3) All of the following athletically related medical expenses information:

(A) The NCAA's policy on whether athletic programs are mandated to pay for athletically related medical expenses.

(B) The policy of the postsecondary educational institution's athletic program on whether it will pay for student athletes' athletically related medical expenses, including deductibles, ~~copays~~ *copayments*, coinsurance, and whether the program will pay for athletically related medical expenses that exceed any maximum insurance coverage limits.

(C) The policy of the institution's athletic program concerning who is required to pay for any required athletically related insurance premiums for student athletes who do not have such insurance.

(D) The duration of time the postsecondary educational institution's athletic program continues to pay for athletically related medical expenses after a student athlete's athletic eligibility expires.

(E) Whether or not an athletic program's medical policy covers expenses associated with attaining a second medical opinion for an athletically related injury from a medical physician who is not associated with the athletic program, and whether the athletic program provides coverage for services received by such a physician.

(4) All of the following athletic release information:

(A) The NCAA policy on whether an athletic program may refuse to grant an athletic release to a student athlete who wishes to transfer to another postsecondary educational institution.

(B) The policy of the postsecondary educational institution's athletic program concerning whether it may use any power to refuse to grant an athletic release for a student athlete who wishes to transfer to another postsecondary educational institution.

(c) Commencing January 1, 2012, a postsecondary educational institution that provides, by any delivery method, written material regarding its athletic program to a student athlete shall include a direct link to the institution's Internet Web ~~page~~ *site*, where the student athlete shall be able to access all of the information

regarding the institution's athletic scholarship program as described in subdivision (b).

SEC. 74. Section 68074 of the Education Code is amended to read:

68074. (a) (1) An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the ~~armed forces~~ *Armed Forces* of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees.

(2) A student seeking a graduate degree who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the ~~armed forces~~ *Armed Forces* of the United States stationed in this state on active duty shall be entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one academic year, and shall thereafter be subject to Article 5 (commencing with Section 68060).

(b) If that member of the ~~armed forces~~ *Armed Forces* of the United States, whose dependent natural or adopted child, stepchild, or spouse is in attendance at an institution, (1) is thereafter transferred on military orders to a place outside this state where the member continues to serve in the ~~armed forces~~ *Armed Forces* of the United States, or (2) is thereafter retired as an active member of the ~~armed forces~~ *Armed Forces* of the United States, the student dependent shall not lose his or her resident classification until he or she has resided in the state the minimum time necessary to become a resident.

SEC. 75. Section 89090 of the Education Code is amended to read:

89090. (a) The trustees, alumni associations, and auxiliary organizations may distribute the names, addresses, and electronic mail addresses of alumni of the California State University to a business as described in subdivision (b), in order to accomplish any or all of the following:

(1) To provide those persons with informational materials relating to the university and its programs and activities.

(2) To provide those persons, the trustees, the alumni associations, and the auxiliary organizations with commercial opportunities that provide a benefit to those persons, or to the trustees, alumni associations, or auxiliary organizations.

(3) To promote and support the educational mission of the university, the trustees, the alumni associations, or the auxiliary organizations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1) (A) The trustees, the alumni associations, or the auxiliary organizations have a written agreement with a business, as defined in subdivision (a) of Section 1798.80 of the Civil Code, that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the California State University retain the right to approve or reject any purpose for which the private information is to be used by the business, and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for any purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the trustees, the affected alumni association, or the affected auxiliary organization unless and until the mailing conspicuously identifies the university, the alumni association, or the auxiliary organization as associated with the business described in the mailing.

(B) If an affinity partner, as defined in Section 4054.6 of the Financial Code, sends any message to any electronic mail address obtained pursuant to this section, that message shall include at least both of the following:

(i) The identity of the sender of the message.

(ii) A cost-free means for the recipient to notify the sender not to electronically transmit any further message to the recipient.

(2) The trustees, an alumni association, or an auxiliary organization shall not disclose to, or share alumni nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the alumnus, pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and electronic mail addresses does not include the names, addresses, and electronic mail addresses of alumni who, pursuant to subdivision

(c) or in another manner, have directed the trustees, an alumni association, or an auxiliary organization not to disclose their names, addresses, or electronic mail addresses.

(4) No information regarding either of the following is disclosed:

(A) The current students of the California State University.

(B) An alumnus who, as a student at a campus of the California State University, indicated that, pursuant to the *federal* Family Educational Rights and Privacy Act, he or she did not wish his or her name, address, and electronic mail address to be disclosed.

(c) (1) The trustees, the affected alumni association, or the affected auxiliary organization shall satisfy the notice requirements of subdivision (b) if it uses the form set forth in paragraph (2). The form set forth in this subdivision or a form that complies with subparagraphs (A) to (J), inclusive, ~~of this paragraph~~ shall be provided by the trustees, the alumni association, or the auxiliary organization to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the trustees, the alumni association, or the auxiliary organization regarding the sharing of his or her name, address, and electronic mail address:

(A) The form uses the title "IMPORTANT PRIVACY CHOICE" and the header, if applicable, as follows: "Restrict Information Sharing With Affinity Partners."

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form is a separate document, except as provided by subparagraph (B) of paragraph (3).

(D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences (an average of 15 to 20 words) or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2) The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and electronic mail address with our affinity partners (companies that we partner with to offer products or services to our alumni). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and electronic mail address with our affinity partners. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With Affinity Partners:

Unless you say "NO," we may share your name, address, and electronic mail address with our affinity partners. Our affinity partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

( ) NO, please do not share my name, address, and electronic mail address with your affinity partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our affinity partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and electronic mail address with our affinity partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

(1) Call this toll-free telephone number: (xxx-xxx-xxxx).

(2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.

(3) Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

Xxxxxxxxxxxxxxxxx
Xxxxxxxxxxxxxxxxx
Xxxxxxxxxxxxxxxxx
Name:
Address:
Signature:

(3) (A) The trustees, the affected alumni association, or the affected auxiliary organization shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, addresses, and electronic mail addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B) The form shall be provided to alumni in each of the following communications:

(i) The solicitation to students, upon their graduation, from the trustees or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.

(ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.

(iii) The Internet Web site for the alumni association shall include a link to the form, which shall be located on either the homepage of the association's Internet Web site or in the association's privacy policy.

(iv) A one-time mailing to all alumni on the university mailing list as of January 1, 2006.

(v) An annual electronic communication to those alumni for whom electronic mail addresses are available.

(4) The trustees, the affected alumni associations, or the affected auxiliary organizations shall provide at least two alternative cost-free means for alumni to communicate their privacy choices, such as calling a toll-free telephone number or using electronic means. The trustees, the alumni association, or the auxiliary organization shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the alumnus on how to communicate his or her choice, including the toll-free telephone or facsimile number or *Internet* Web site

address that may be used, if those means of communication are offered.

(5) (A) An alumnus may direct at any time that his or her name, address, and electronic mail address not be disclosed. The trustees, the affected alumni association, or the affected auxiliary organization shall comply with the direction of an alumnus concerning the sharing of his or her name, address, and electronic mail address within 45 days of receipt by the trustees, the alumni association, or the auxiliary organization. When an alumnus directs that his or her name, address, and electronic mail address not be disclosed, that direction is in effect until otherwise stated by the alumnus.

(B) Nothing in this subdivision shall prohibit the disclosure of the name, address, and electronic mail address of an alumnus as allowed by other applicable provisions of state law.

(6) The trustees, or the affected alumni association or the affected auxiliary organization, may provide a joint notice from the trustees or from one or more alumni associations, as identified in the notice, so long as the notice is accurate with respect to the trustees and the alumni association or associations or auxiliary organization or organizations participating in the joint notice.

(d) As used in this section, "auxiliary organization" has the same meaning as set forth in Section 89901.

(e) This section shall not be construed to authorize the release of any social security numbers.

SEC. 76. Section 92630 of the Education Code is amended to read:

92630. (a) The regents and alumni associations may distribute the names, addresses, and electronic mail addresses of alumni of the University of California to a business as described in subdivision (b) in order to accomplish any or all of the following:

(1) To provide those persons with informational materials relating to the university or college and its programs and activities.

(2) To provide those persons, the regents, ~~the board of directors,~~ and the alumni associations with commercial opportunities that provide a benefit to those persons, or to the regents~~, the board of directors,~~ or the alumni associations.

(3) To promote and support the educational mission of the university, the regents, ~~the board of directors,~~ or the alumni associations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1) (A) The regents~~, the board of directors,~~ or the alumni associations have a written agreement with a business, as defined in subdivision (a) of Section 1798.80 of the Civil Code that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the University of California retain the right to approve or reject any purpose for which the private information is to be used by the business and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for any purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the regents or the affected alumni association unless and until the mailing conspicuously identifies the university or the alumni association as associated with the business described in the mailing.

(B) If an affinity partner, as defined in Section 4054.6 of the Financial Code, sends any message to any electronic mail address obtained pursuant to this section, that message shall include at least both of the following:

(i) The identity of the sender of the message.

(ii) A cost-free means for the recipient to notify the sender not to electronically transmit any further message to the recipient.

(2) The regents~~, the board of directors,~~ or an alumni association shall not disclose to, or share a consumer's nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the consumer pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and electronic mail addresses does not include the names, addresses, and electronic mail addresses of alumni who, pursuant to subdivision (c) or in another manner, have directed the regents~~, the board of directors,~~ or an alumni association not to disclose their names, addresses, or electronic mail addresses.

(4) No information regarding either of the following is disclosed:

(A) The current students of the University of California.

(B) An alumnus who, as a student of a campus of the University of California, indicated that, pursuant to the *federal* Family Educational Rights and Privacy Act, he or she did not wish his or her name, address, and electronic mail address to be disclosed.

(c) (1) The regents~~, the board of directors,~~ or the affected alumni association shall satisfy the notice requirements of subdivision (b) if it uses the form set forth in paragraph (2). The form set forth in this subdivision or a form that complies with subparagraphs (A) to (J), inclusive, ~~of this paragraph~~ shall be provided by the regents~~, the board of directors,~~ or the alumni association to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the regents and the alumni association regarding the sharing of his or her name, address, and electronic mail address:

(A) The form uses the title "IMPORTANT PRIVACY CHOICE" and the header, if applicable, as follows: "Restrict Information Sharing With Affinity Partners."

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form is a separate document, except as provided by subparagraph (B) of paragraph (3).

(D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences (an average of 15 to 20 words) or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2) The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and electronic mail address with our affinity partners (companies that we partner with to offer products or services to our alumni). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and electronic mail address with our affinity partners. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With Affinity Partners:

Unless you say "NO," we may share your name, address, and electronic mail address with our affinity partners. Our affinity partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

( ) NO, please do not share my name, address, and electronic mail address with your affinity partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and electronic mail address with our affinity partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

(1) Call this toll-free telephone number: (xxx-xxx-xxxx).

(2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.

(3) Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

Xxxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxxx

Name:

Address:

Signature:

(3) (A) The regents~~, the board of directors,~~ or the affected alumni association shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, addresses, and electronic mail addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B) The form shall be provided to alumni in each of the following communications:

(i) The solicitation to students, upon their graduation, from the regents~~, the board of directors,~~ or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.

(ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.

(iii) The Internet Web site for the alumni association shall include a link to the form, which shall be located on either the homepage of the association's Internet Web site or in the association's privacy policy.

(iv) A one-time mailing to all alumni on the university or college mailing list as of January 1, 2006.

(v) An annual electronic communication to those alumni for whom electronic mail addresses are available.

(4) The regents~~, the board of directors,~~ or the affected alumni associations shall provide at least two alternative cost-free means for alumni to communicate their privacy choice, such as calling a toll-free telephone number, or using electronic means. The regents~~, the board of directors,~~ or the alumni association shall clearly and conspicuously disclose in the form required by this subdivision the information necessary to direct the alumnus on how to communicate his or her choices, including the toll-free telephone or facsimile number or *Internet* Web site address that may be used, if those means of communication are offered.

(5) (A) An alumnus may direct at any time that his or her name, address, and electronic mail address not be disclosed. The regents~~, the board of directors,~~ or the affected alumni association shall comply with the direction of an alumnus concerning the sharing of his or her name, address, and electronic mail address within 45

days of receipt by the regents~~, the board of directors,~~ or the alumni association. When an alumnus directs that his or her name, address, or electronic mail address not be disclosed, that direction is in effect until otherwise stated by the alumnus.

(B) Nothing in this subdivision shall prohibit the disclosure of the name, address, or electronic mail address of an alumnus as allowed by other applicable provisions of state law.

(6) The regents~~, the board of directors,~~ or the affected alumni association may provide a joint notice from the regents~~, from the board of directors,~~ or from one or more alumni associations, as identified in the notice, so long as the notice is accurate with respect to the regents~~ or the board of directors~~ and the alumni association or associations participating in the joint notice.

(d) This section shall not be construed to authorize the release of any social security numbers.

SEC. 77. Section 99221.5 of the Education Code is amended to read:

99221.5. (a) The Regents of the University of California are requested to authorize the President of the University of California or his or her designee to jointly develop English Language Development Professional Institutes with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the independent colleges and universities, and the Superintendent, or their designees. In order to provide maximum access, the institutes shall be offered at sites widely distributed throughout the state, which shall include programs offered through instructor-led, interactive online courses, in accordance with existing state law. In order to maximize access to teachers and administrators who may be precluded from participating in an onsite institute due to geographical, physical, or time constraints, each institute shall accommodate at least 5 percent of the participants through existing state-approved online instructor-led courses, programs, or both. The California subject matter projects, an intersegmental, discipline-based professional development network administered by the University of California, is requested to be the organizing entity for the institutes and followup programs.

(b) (1) The institutes shall provide instruction for school teams from each school participating in the program established pursuant to this section. The institutes may provide instruction for school

teams serving English language learners in kindergarten and grades 1 to 12, inclusive. A school team shall include teachers who do not hold crosscultural or bilingual-crosscultural certificates or their equivalents, teachers who hold those certificates or their equivalents, and a schoolsite administrator. The majority of the team shall be teachers who do not hold those crosscultural certificates or their equivalents. If the participating school team employs instructional assistants who provide instructional services to English language learners, the team may include these instructional assistants.

(2) Commencing in July 2000, the English Language *Professional* Development Institutes shall provide instruction to an additional 10,000 participants. These participants shall be in addition to the 5,000 participants authorized as of January 1, 2000. Commencing July 2001, and each fiscal year thereafter, the number of participants receiving instruction through the English Language Development *Professional* Institutes shall be specified in the annual Budget Act.

(3) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' reading scores are at or below the 40th percentile on the English language arts portion of the achievement test authorized by Section 60640.

(B) Schools in which a high percentage of pupils score below grade level on the English language development assessment authorized by Section 60810, when it is developed.

(C) Schools with a high number of new, underprepared, and noncredentialed teachers. Underprepared teachers shall be defined as teachers who do not possess a crosscultural or bilingual-crosscultural certificate, or their equivalents.

(D) Schools in which the enrollment of English language learners exceeds 25 percent of the total school enrollment.

(E) Schools with a full complement of team members as described in paragraph (1).

(4) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (C) of paragraph (3).

(c) Each team member who satisfactorily completes an institute authorized by this section shall receive a stipend, commensurate with the duration of the institute, of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000), as determined by the University of California.

(d) Instruction provided by the institutes shall be consistent with state-adopted academic content standards and with the English language development standards adopted pursuant to Section 60811.

(e) (1) Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 80 hours during the summer or during an intersession break or an equivalent instructor-led, online course and shall be supplemented during the following school year with no fewer than 80 hours nor more than 120 hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of English language learners at that school.

(2) Instruction at the institutes shall be of sufficient scope, depth, and duration to fully equip instructional personnel to offer a comprehensive and rigorous instructional program for English language learners and to assess pupil progress so these pupils can meet the academic content and performance standards adopted by the state board. The instruction shall be designed to increase the capacity of teachers and other school personnel to provide and assess standards-based instruction for English language learners.

(3) The instruction shall be multidisciplinary and focus on instruction in disciplines for which the state board has adopted academic content standards. The instruction shall also be research-based and provide effective models of professional development in order to ensure that instructional personnel increase their skills, at a minimum, in all of the following:

(A) Literacy instruction and assessment for diverse pupil populations, including instruction in the teaching of reading that is research-based and consistent with the balanced, comprehensive strategies required under Section 44757.

(B) English language development and second language acquisition strategies.

(C) Specially designed instruction and assessment in English.

(D) Application of appropriate assessment instruments to assess language proficiency and utilization of benchmarks for

reclassification of pupils from English language learners to fully English proficient.

(E) Examination of pupil work as a basis for the alignment of standards, instruction, and assessment.

(F) Use of appropriate instructional materials to assist English language learners to attain academic content standards.

(G) Instructional technology and its integration into the school curriculum for English language learners.

(H) Parent involvement and effective practices for building partnerships with parents.

(f) A local educational agency may use its economic impact aid funds for purposes of this section.

(g) It is the intent of the Legislature that a local educational agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of the course requirements to an enrolled candidate who satisfactorily completes a California English Language Development Institute program if the program has been certified by the Commission on Teacher Credentialing as meeting preparation standards.

(h) This section does not prohibit a team member from attending an institute authorized by this section in more than one academic year.

(i) This section shall not apply to the University of California unless and until the Regents of the University of California act, by resolution, to make it applicable.

SEC. 78. Section 332.5 of the Elections Code is amended to read:

332.5. "Nominate" means the selection, at a state-conducted primary election, of candidates who are entitled by law to participate in the general election for that office, but does not mean any other lawful mechanism that a political party may adopt for the purposes of choosing the candidate who is preferred by the party for a nonpartisan or ~~voter nominated~~ *voter-nominated* office.

SEC. 79. Section 337 of the Elections Code is amended to read:

337. "Partisan office" or ~~"party nominated~~ "*party-nominated* office" means any of the following offices:

(a) President of the United States, Vice President of the United States, and the delegates therefor.

(b) Elected member of a party committee.

SEC. 80. Section 2151 of the Elections Code is amended to read:

2151. (a) At the time of registering and of transferring registration, each elector may disclose the name of the political party that he or she prefers. The name of that political party shall be stated in the affidavit of registration and the index.

(b) (1) The voter registration card shall inform the affiant that any elector may decline to state a political party ~~reference~~ *preference*, but no person shall be entitled to vote the ballot of any political party at any primary election for President of the United States or for a party committee unless he or she has disclosed the name of the party that he or she prefers or unless he or she has declined to disclose a party preference and the political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party. The voter registration card shall further inform the affiant that any registered voter may vote for any candidate at a primary election for state elective office or congressional office, regardless of the disclosed party preference of the registrant or the candidate seeking that office or the refusal of the registrant or candidate to disclose a party preference. This notice shall be printed in ~~12 point~~ *12-point* Times New Roman font.

(2) The voter registration card shall include a listing of all qualified political parties. The voter registration card shall include a listing of all qualified political parties. As part of that listing, the voter registration card shall also contain an option designated "No Party Preference." This option shall be placed at the beginning of the listing of qualified political parties.

(c) No person shall be permitted to vote the ballot of any party or for any delegates to the convention of any party other than the party disclosed as preferred in his or her registration, except as provided by Section 2152 or unless he or she has declined to disclose a party preference and the party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to state a party affiliation to vote the party ballot or for delegates to the party convention.

(d) As of the effective date of the statute that added this subdivision, any voter who previously stated a political party affiliation when registering to vote shall be deemed to have

disclosed that same party as his or her ~~a~~ political party preference unless the voter files a new affidavit of registration disclosing a different political party preference or no political party preference. Any voter who previously declined to state a party affiliation shall be deemed to have chosen the "No Party Preference" option unless the voter files a new affidavit of registration disclosing a different political party preference.

SEC. 81. Section 3103.5 of the Elections Code is amended to read:

3103.5. (a) A special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by ~~absent voter~~ *mail* ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission must be received by the voter's elections official no later than the closing of the polls on election day and must be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

OATH OF VOTER

I,_____, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is _____ .
(Street Address) (City) (ZIP Code)

My current mailing address is _____ .
(Street Address) (City) (ZIP Code)

My e-mail address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, and I have not

applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature)_____
voter (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.

(b) Notwithstanding the voter's waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission.

(c) Upon receipt of a ballot returned by facsimile transmission, the elections official shall determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(d) Notwithstanding subdivision (a), a special absentee voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A special absentee voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

SEC. 82. Section 6950 of the Elections Code is amended to read:

6950. Within three days of receiving the names of delegate candidates from the chairpersons of the steering committees, the Secretary of State shall transmit to each elections official a certified list, for each congressional district wholly or partially within that county, containing the names of the delegate candidates selected

and pledged to each candidate or uncommitted delegation who is entitled to be voted for on the ballot at the presidential primary.

The certified list shall be in substantially the following form:

Certified List of Delegate Candidates
In the ____ Congressional District

To the County Elections Official of ____ County:

I, ____, Secretary of State, do hereby certify that the following persons, listed beneath the name of the presidential candidate or uncommitted delegation they are pledged to, are the delegate candidates who will represent the voters of this congressional district at the ____ Democratic National Convention to the extent, based on his or her proportional share of the total votes for president in this district, that each presidential candidate or uncommitted delegation is entitled to delegates from this district.

List of Delegates Pledged to Presidential
Candidates and Uncommitted Delegations
In the _____ Congressional District

Delegates Pledged to	Delegates Pledged to
Rosaly Lever	Janice Atkinson
Deborah Seiler	John Mott-Smith
Elaine Ginnold	Rosa Garcia-Viteri
George Mann	Bruce Bolinger
Darren Chesin	Mary DeLost
Delegates Pledged to	Delegates Pledged to
Christopher Zirkle	Unpledged Delegation,
	James Ashford, Chairperson
Mark Terry	Abra Reynaga
Romulo Lopez	Sylvia Cheng
Linda M. Gonzalez	Michael Ognisty
Joe Ayala	Bill Pitts
Lori Joseph	Lynne Chinn

Dated at Sacramento, California, this _____ day of _____, 20__.

_____Secretary of State

(SEAL)

SEC. 83. Section 7110 of the Elections Code is amended to read:

7110. (a) Notwithstanding Section 8148, if the Democratic National Convention will conclude after the deadline for the Secretary of State to deliver certificates of nomination to local elections officials pursuant to Section 8148, the Chairperson of the Democratic State Central Committee shall do one of the following:

(1) Notify the Secretary of State of the apparent nomination of the Democratic candidates for President and Vice President of the United States not less than 78 days prior to the election, if all of the following conditions apply:

(A) A candidate for President has attained a sufficient number of delegate votes to ~~assure~~ *ensure* his or her nomination at the Democratic National Convention.

(B) The candidate described in subparagraph (A) has identified a person who will be nominated to run for the office of Vice President.

(C) The Democratic National Convention is likely to nominate the person who is the choice of the candidate for President in the Vice Presidential nomination.

(2) Notify the Secretary of State of the apparent nomination of the Democratic candidates for President and Vice President of the United States as soon as each of these apparent nominations become known but not less than 61 days prior to the election, if all of the following conditions apply:

(A) A candidate for President has attained a sufficient number of delegate votes to ~~assure~~ *ensure* his or her nomination at the Democratic National Convention.

(B) The candidate described in subparagraph (A) has identified a person who will be nominated to run for the office of Vice President.

(C) The Democratic National Convention is likely to nominate the person who is the choice of the candidate for President in the Vice Presidential nomination.

(b) The Secretary of State shall prepare the certificates of nomination required in Section 8148 to include the names of the Democratic candidates for President and Vice President as notified by the Chairperson of the Democratic State Central Committee.

(c) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 84. Section 8002.5 of the Elections Code is amended to read:

8002.5. (a) A candidate for a voter-nominated office may indicate his or her party preference, or lack of party preference, as disclosed upon the candidate's most recent statement of registration, upon his or her declaration of candidacy. If a candidate indicates his or her party preference on his or her declaration of candidacy, it shall appear on the primary and general election ballot in conjunction with his or her name. The candidate's designated party preference on the ballot shall not be changed between the primary and general election. A candidate for voter-nominated office may also choose not to have the party preference disclosed upon the candidate's most recent affidavit of registration indicated upon the ballot.

(b) Regardless of the disclosed party preference of the candidate or the voter, any qualified voter may vote for any candidate for a voter-nominated office if the voter is otherwise entitled to vote for candidates for the office to be filled. Nothing in Section 2151, 3006, 3007.5, 3205, or ~~3102~~ *13102* shall be construed to limit the ability of a voter to cast a primary election ballot for any candidate for a voter-nominated office, regardless of the party preference, or lack of party preference, designated by the candidate for inclusion upon the ballot pursuant to this section, provided that the voter is otherwise qualified to cast a ballot for the office at issue.

(c) A candidate designating a party preference pursuant to subdivision (a) shall not be deemed to be the official nominee of the party designated as preferred by the candidate. A candidate's designation of party preference shall not be construed as an endorsement of that candidate by the party designated. The party preference designated by the candidate is shown for the information of the voters only and may in no way limit the options available to voters.

(d) All references to party preference or affiliation shall be omitted from all forms required to be filed by a voter-nominated candidate pursuant to this division in the same manner that such references are omitted from forms required to be filed by

nonpartisan candidates pursuant to Section 8002, except that the declaration of candidacy required by Section 8040 shall include space for the candidate to list the party preference disclosed upon the candidate's most recent affidavit of registration, in accordance with ~~subsection~~ *subdivision* (a).

SEC. 85. Section 8121 of the Elections Code is amended to read:

8121. (a) Not less than five days before he or she transmits the certified list of candidates to the county elections officials, as provided in Section 8120, the Secretary of State shall notify each candidate for partisan office and voter-nominated office of the names, addresses, offices, occupations, and party preferences of all other persons who have filed for the same office.

(b) (1) Beginning not less than five days before he or she transmits the certified list of candidates to the county elections officials, as required by Section 8120, the Secretary of State shall post, in a conspicuous place on his or her Internet Web site, the party preference history of each candidate for voter-nominated office for the preceding 10 years. The candidates' party preference history shall be continuously posted until such time as the official canvass is completed for the general or special election at which a candidate is elected to the voter-nominated office sought, except that, in the case of a candidate who participated in the primary election and who was not nominated to participate in the general election, the candidate's party preference history need not continue to be posted following the completion of the official canvass for the primary election in question.

(2) For purposes of this subdivision, ~~the phrase~~ "party preference history" also refers to the candidate's history of party registration during the 10 years preceding the effective date of this section.

(3) The Secretary of State shall also conspicuously post on the same ~~web page~~ *Internet Web site* as that containing the candidates' party preference history the notice specified by ~~of~~ subdivision (b) of Section 9083.5.

SEC. 86. Section 10735 of the Elections Code is amended to read:

10735. (a) (1) In the case of a special election due to a catastrophe that causes a vacancy in at least 101 offices of the ~~of the~~ United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by

mail ballots requested pursuant to Chapter 4 (commencing with Section 3300) of Division 3 not later than 15 days after the date on which the Speaker of the United States House of Representatives announces the vacancy.

(2) In the case of a special election due to a catastrophe that causes a vacancy in at least one-fourth of the total offices of the United States House of Representatives representing California but not a vacancy in at least 101 of the offices of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 4 (commencing with Section 3300) of Division 3 not later than 15 days after the date on which the Governor issues the proclamation calling the election to fill the vacancy.

(b) A vote by mail ballot cast pursuant to Chapter 4 (commencing with Section 3300) of Division 3 in a special general election conducted pursuant to this chapter shall be postmarked not later than the date of the election, shall be received by the county elections official not later than 45 days after the date on which the elections official transmitted the ballot to the voter, and shall comply with all other relevant requirements of this code.

(c) Notwithstanding any other provision of law, any deadlines relating to canvassing, announcement of election results, or certification of election results may be extended for a reasonable period of time to facilitate the tabulating and processing of ballots cast pursuant to Chapter 4 (commencing with Section 3300) of Division 3. An extension of a deadline pursuant to this section must be authorized by the Secretary of State.

SEC. 87. Section 12108 of the Elections Code is amended to read:

12108. In any case where this chapter requires the posting or distribution of a list of the names of precinct board members, or a portion of the list, the officers charged with the duty of posting shall ascertain the name of the political party, if any, for which each precinct board member has expressed a preference, as shown in the affidavit of registration of that person. When the list is posted or distributed, there shall be printed the name of the board member's party preference or an abbreviation of the name to the right of the name, or immediately below the name, of each precinct board member. If a precinct board member has not expressed a

preference for a political party, the words ~~" "No~~ "*No* Party Preference" shall be printed in place of the party name.

SEC. 88. Section 13207 of the Elections Code is amended to read:

13207. (a) There shall be printed on the ballot in parallel columns all of the following:

(1) The respective offices.

(2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot.

(3) Whatever measures have been submitted to the voters.

(b) In the case of a ballot which is intended for use in a party primary and which carries both partisan offices, voter-nominated offices, and nonpartisan offices, a vertical solid black line shall divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices and voter-nominated offices, on the right.

(c) The standard width of columns containing partisan offices, nonpartisan offices, and voter-nominated offices, shall be three inches, but ~~a~~ *an* elections official may vary the width of these columns up to 10 percent more or less than the three-inch standard. However, the column containing presidential and vice presidential candidates may be as wide as four inches.

(d) Any measures that are to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of each measure. To the right of each title and summary shall be printed, on separate lines, the words "Yes" and "No."

SEC. 89. Section 13208 of the Elections Code is amended to read:

13208. (a) In the right-hand margin of each column light vertical lines shall be printed in such a way as to create a voting square after the name of each candidate for partisan office, voter-nominated office, nonpartisan office (except for ~~justice~~ *Justice* of the Supreme Court or *justice of a* court of appeal), or for ~~chairman~~ *chairperson* of a group of candidates for delegate to a national convention who express no preference for a presidential candidate. In the case of Supreme Court or appellate justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting squares to the right of the words

"Yes" and "No." The voting squares shall be used by the voters to express their choices as provided for in the instruction to voters.

(b) The standard voting square shall be at least three-eighths of an inch square but may be up to one-half inch square. Voting squares for measures may be as tall as is required by the space occupied by the title and summary.

SEC. 90. Section 1390 of the Evidence Code is amended to read:

1390. (a) Evidence of a statement is not made inadmissible by the hearsay rule if the statement is offered against a party that has engaged, or aided and abetted, in the wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

(b) (1) The party seeking to introduce a statement pursuant to subdivision (a) shall establish, by a preponderance of the evidence, that the elements of subdivision (a) have been met at a foundational hearing.

(2) The hearsay evidence that is the subject of the foundational hearing is admissible at the foundational hearing. However, a finding that the elements of subdivision (a) have been met shall not be based solely on the unconfronted hearsay statement of the unavailable declarant, and shall be supported by independent corroborative evidence.

(3) The foundational hearing shall be conducted outside the presence of the jury. However, if the hearing is conducted after a jury trial has begun, the judge presiding at the hearing may consider evidence already presented to the jury in deciding whether the elements of subdivision (a) have been met.

(4) In deciding whether or not to admit the statement, the judge may take into account whether it is trustworthy and reliable.

(c) This section shall apply to any civil, criminal, or juvenile case or proceeding initiated or pending as of January 1, 2011.

(d) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date. If this section is repealed, the fact that it is repealed, should it occur, shall not be deemed to give rise to any ground for an appeal or a postverdict challenge based on its use in a criminal or juvenile case or proceeding before January 1, 2016.

SEC. 91. Section 4326 of the Family Code is amended to read:

4326. (a) Except as provided in subdivision (d), in a proceeding in which a spousal support order exists or in which the court has retained jurisdiction over a spousal support order, if a companion child support order is in effect, the termination of child support pursuant to subdivision (a) of Section 3901 constitutes a change of circumstances that may be the basis for a request by either party for modification of spousal support.

(b) A motion to modify spousal support based on the change of circumstances described in subdivision (a) shall be filed by either party no later than six months from the date the child support order terminates.

(c) If a motion to modify a spousal support *order* pursuant to subdivision (a) is filed, either party may request the appointment of a vocational training counselor pursuant to Section 4331.

(d) Notwithstanding subdivision (a), termination of the child support order does not constitute a change of circumstances under subdivision (a) in any of the following circumstances:

(1) The child and spousal support orders are the result of a marital settlement agreement or judgment and the marital settlement agreement or judgment contains a provision regarding what is to occur when the child support order terminates.

(2) The child and spousal support orders are the result of a marital settlement agreement or judgment, which provides that the spousal support order is nonmodifiable or that spousal support is waived and the court's jurisdiction over spousal support has been terminated.

(3) The court's jurisdiction over spousal support was previously terminated.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 92. Section 5616 of the Family Code is amended to read:

5616. (a) Every court order for child support issued on or after January 1, 2010, and every child support agreement providing for the payment of child support approved by a court on or after January 1, 2010, shall include a separate money judgment owed by the child support obligor to pay a fee not to exceed 33 and ⅓ percent of the total amount in arrears, and not to exceed 50 percent of the fee as charged by a private child support collector pursuant to a contract complying with ~~the requirements of~~ this chapter and

any other child support collections costs expressly permitted by the child support order for the collection efforts undertaken by the private child support collector. The money judgment shall be in favor of the private child support collector and the child support obligee, jointly, but shall not constitute a private child support collector lien on real property unless an abstract of judgment is recorded pursuant to subdivision (d). Except as provided in subdivision (c), the money ~~judgement~~ *judgment* may be enforced by the private child support collector by any means available to the obligee for the enforcement of the child support order without any additional action or order by the court. Nothing in this chapter shall be construed to grant the private child support collector any enforcement remedies beyond those authorized by federal or state law. Any fee collected from the obligor pursuant to a contract complying with ~~the requirements of~~ this chapter, shall not constitute child support.

(b) If the child support order makes the obligor responsible for payment of collection fees and costs, fees that are deducted by a private child support collector may not be credited against child support arrearages or interest owing on arrearages or any other money owed by the obligor to the obligee.

(c) If the order for child support requires payment of collection fees and costs by the obligor, then not later than five days after the date that the private child support collector makes its first collection, written notice shall be provided to the obligor of (1) the amount of arrearages subject to collection, (2) the amount of the collection that shall be applied to the arrearage, and (3) the amount of the collection that shall be applied to the fees and costs of collection. The notice shall provide that, in addition to any other procedures available, the obligor has 30 days to file a motion to contest the amount of collection fees and costs assessed against the obligor.

(d) Any fees or monetary obligations resulting from the contract between an obligee parent and a private child support collector, or moneys owed to a private child support collector by the obligor parent or obligee parent as a result of the private child support collector's efforts, does not create a lien on real property, unless an abstract of judgment is obtained from the court and recorded by the private child support collector against the real property in the county in which it is located, nor shall that amount be added

to any existing lien created by a recorded abstract of support or be added to an obligation on any abstract of judgment. A private child support collector lien shall have the force, effect, and priority of a judgment lien.

(e) An assignment to a private child support collector is a voluntary assignment for the purpose of collecting the domestic support obligation as defined in Section 101 of Title 11 of the United States Bankruptcy Code (11 U.S.C. ~~Section~~ *Sec.* 101 (14 A)).

SEC. 93. Section 6228 of the Family Code is amended to read:

6228. (a) State and local law enforcement agencies shall provide, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, or to his or her representative as defined in subdivision (g), upon request. For purposes of this section, "domestic violence" has the definition given in Section 6211.

(b) A copy of a domestic violence incident report face sheet shall be made available during regular business hours to a victim of domestic violence or his or her representative no later than 48 hours after being requested by the victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the domestic violence incident report face sheet is not available, in which case the domestic violence incident report face sheet shall be made available to the victim or his or her representative no later than five working days after the request is made.

(c) A copy of the domestic violence incident report shall be made available during regular business hours to a victim of domestic violence or his or her representative no later than five working days after being requested by a victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the domestic violence incident report is not available, in which case the domestic violence incident report shall be made available to the victim or his or her representative no later than 10 working days after the request is made.

(d) Any person requesting copies under this section shall present state or local law enforcement with his or her identification, such

as a current, valid driver's license, a state-issued identification card, or a passport and, if the person is a representative of the victim and the victim is deceased, a certified copy of the death certificate or other satisfactory evidence of the death of the victim at the time a request is made.

(e) This section shall apply to requests for face sheets or reports made within five years from the date of completion of the domestic violence incident report.

(f) This section shall be known~~,~~ and may be cited~~,~~ as the Access to Domestic Violence Reports Act of 1999.

(g) (1) For purposes of this section, if the victim is deceased, a ~~representative~~ *"representative* of the ~~victim~~ *victim"* means any of the following:

(A) The surviving spouse.

(B) A surviving child of the decedent who has attained 18 years of age.

(C) A domestic partner, as defined in subdivision (a) of Section 297.

(D) A surviving parent of the decedent.

(E) A surviving adult relative.

(F) The personal representative of the victim, as defined in Section 58 of the Probate Code, if one is appointed.

(G) The public administrator if one has been appointed.

(2) For purposes of this section, if the victim is not deceased, a ~~representative~~ *"representative* of the ~~victim~~ *victim"* means any of the following:

(A) A parent, guardian, or adult child of the victim, or an adult sibling of a victim 12 years of age or older, who shall present to law enforcement identification pursuant to subparagraph (A) of paragraph (4), and if the victim is 12 years of age or older, a signed authorization by the victim allowing that family member or guardian to act on the victim's behalf. A guardian shall also present to law enforcement a copy of his or her letters of guardianship demonstrating that he or she is the appointed guardian of the victim.

(B) An attorney for the victim, who shall present to law enforcement identification pursuant to subparagraph (A) of paragraph (4) and written proof that he or she is the attorney for the victim.

(C) A conservator of the victim who shall present to law enforcement identification pursuant to subparagraph (A) of

paragraph (4) and a copy of his or her letters of conservatorship demonstrating that he or she is the appointed conservator of the victim.

(3) A representative of the victim does not include any person who has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, of the victim, or any person identified in the incident report face sheet as a suspect.

(4) Domestic violence incident report face sheets may not be provided to a representative of the victim unless both of the following conditions are met:

(A) The representative presents his or her identification, such as a current, valid driver's license, a state-issued identification card, or a passport.

(B) The representative presents one of the following:

(i) If the victim is deceased, a certified copy of the death certificate or other satisfactory evidence of the death of the victim at the time of the request.

(ii) If the victim is alive, 12 years of age or older, and not the subject of a conservatorship, a written authorization signed by the victim making him or her the victim's personal representative.

SEC. 94. Section 1805 of the Financial Code is amended to read:

1805. This chapter does not apply to the following:

(a) The United States or a department, agency, or instrumentality thereof, including any federal reserve bank and any federal home loan bank.

(b) Money transmission by the United States Postal Service or by a contractor on behalf of the United States Postal Service.

(c) A state, county, city, or any other governmental agency or governmental subdivision of a state.

(d) A commercial bank or industrial bank, the deposits of which are insured by the Federal Deposit Insurance Corporation or its successor, or any foreign (other nation) bank that is licensed under Article 3 (commencing with Section 1750) of Chapter 13.5 or that is authorized under federal law to maintain a federal agency or federal branch office in this state; a trust company licensed pursuant to Section 401 or a national association authorized under federal law to engage in a trust banking business; an association or federal association, as defined in Section 5102, the deposits of which are insured by the Federal Deposit Insurance Corporation or its

successor; and any federally or state chartered credit union the member accounts of which are insured or guaranteed as provided in Section 14858.

(e) Electronic funds transfer of governmental benefits for a federal, state, county, or local governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof.

(f) A board of trade designated as a contract market under the federal Commodity Exchange Act (7 U.S.C. ~~Secs. 1-25, incl.)~~ *Sec. 1 et seq.)* or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board.

(g) A person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from registration granted under the federal securities laws to the extent of its operation as such a provider.

(h) An operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated ~~clearing house~~ *clearinghouse* transfers, or similar funds transfers, to the extent of its operation as such a provider.

(i) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer.

(j) A person listed under subdivision (d) is exempted from all the provisions of this chapter, except Sections 1827 and 1828.

SEC. 95. Section 1822 of the Financial Code is amended to read:

1822. (a) In addition to the fees provided in Section 1818, the commissioner shall levy an assessment each fiscal year, on a pro rata basis, on those licensees that at any time during the preceding calendar year engaged in the business of money transmission in California in an amount that is, in his or her judgment, sufficient to meet the commissioner's expenses in administering ~~the provisions of~~ this chapter and to provide a reasonable reserve for contingencies.

(b) For licensees that sell or issue payment instruments or stored value, the amount of the annual assessment on any licensee shall not exceed the sum of the products determined by multiplying (1) increments of the aggregate face amount of payment instruments and stored value issued or sold in California by the licensee, directly or indirectly through agents, in the calendar year next preceding the date of such assessment, by (2) percentages of the base assessment rate, according to the following table:

Aggregate face amount of payment instruments and stored value sold (in millions)	Percentage of base assessment rate
First $ 1	100.0
Next $9	25.0
Next $40	12.5
Next $50	6.0
Next $400	~~3~~ *3.0*
Next $500	~~2~~ *2.0*
Excess over $1,000	~~1~~ *1.0*

The base assessment rate shall be fixed from time to time by the commissioner but shall not exceed one dollar ($1) per one thousand dollars ($1,000) face amount of payment instruments and stored value sold.

(c) For licensees receiving money for transmission, the basis of the apportionment of the assessment among the licensees assessed shall be the proportion that the total amount of money received for transmission by the licensee in California bears in relation to the total amount of money received for transmission by all licensees in California, as shown by the reports of licensees to the commissioner for the preceding calendar year. The assessment rate shall be fixed from time to time by the commissioner but shall not exceed one dollar ($1) per one thousand dollars ($1,000) of money received for transmission in California by the licensee.

(d) The commissioner shall notify each licensee by mail of the amount levied against it. The licensee shall pay the amount levied within 20 days. If payment is not made to the commissioner within that time, the commissioner shall assess and collect, in addition to

the annual assessment, a penalty of 5 percent of the assessment for each month or part thereof that the payment is delinquent.

SEC. 96. Section 14315 of the Financial Code is amended to read:

14315. (a) On taking possession of the business and assets of any credit union as provided in this chapter, the commissioner may proceed to liquidate the credit union in the manner provided by Article 8 (commencing with Section 305) of Chapter 2 of Division 1, and ~~the provisions of~~ that article, except Sections 325, 325.1, 325.2, and 330, shall apply as if the California credit union were a California state commercial bank, or he or she may appoint a liquidating agent or a liquidating committee of three members of the credit union to liquidate the business and assets of the credit union in the manner provided in Article 2 (commencing with Section 15250) of Chapter 9, except that in lieu of the certificate required under Section 15252 the commissioner shall prepare and file in the office of the Secretary of State a certificate of commencement of liquidation proceedings upon taking possession of the business and assets, and the commissioner or his *or her* authorized deputy shall countersign the certificate referred to in Sections 15257 and 15258 whenever liquidation is involuntary. The commissioner may, however, prepare and file a final certificate whenever he or she retains possession of the assets of any credit union for the purpose of liquidation. The liquidating agent need not be a member of the credit union to be liquidated, and may be a person, firm, or corporation as determined by the commissioner.

(b) If the commissioner takes possession of the property and business of a California credit union pursuant to Section 14313, the commissioner may tender to the National Credit Union Administration an appointment as conservator or receiver of the California credit union. If the National Credit Union Administration accepts the appointment, the National Credit Union Administration shall have, in addition to any powers conferred by federal law, the powers conferred on the commissioner pursuant to subdivision (a).

SEC. 97. Section 17345.1 of the Financial Code is amended to read:

17345.1. (a) A member or successor in interest aggrieved by any action or decision of Fidelity Corporation may file a written

request for a hearing with the commissioner within 30 days from the action or decision.

(b) (1) Except as provided in subdivision (c), the hearing shall be conducted by an administrative law judge on the staff of the Office of Administrative Hearings and the administrative law judge's proposed decision shall be made within 120 days from the date of the request for hearing. This time limit does not constitute a jurisdictional deadline and may be extended by stipulation of the parties or by order of the administrative law judge for good cause.

(2) The hearing shall be conducted in accordance with the administrative adjudication provisions of Chapters 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this subdivision.

(3) The following sections of the Government Code shall not apply to a hearing under this subdivision: Section 11503 (relating to accusations), Section 11504 (relating to statements of issues), Section 11505 (relating to contents of the statement to respondent), Section 11506 (relating to the notice of defense), Section 11507 (relating to amended or supplemental accusations), and Section 11516 (relating to amendment of accusations after submission of case).

(4) The sole parties to the hearing shall be the member or successor in interest (complainant) and Fidelity Corporation (respondent). Third-party intervention shall not be permitted. The disputes, claims, and interests of third parties shall not be within the jurisdiction of the proceedings. However, nothing in this paragraph prohibits any interested party from submitting an amicus brief upon approval by the administrative law judge, after a duly noticed motion demonstrating good cause.

(5) Within 10 days of receipt of the request for a hearing, the commissioner shall schedule the hearing with the Office of Administrative Hearings and shall serve each party by personal service or mail with notice of the hearing, which is to include the date, time, and place of the hearing.

(A) Within 10 days of service of the notice of hearing, the complainant shall file with the Office of Administrative Hearings, and serve upon the respondent by personal service or mail, a written statement setting forth the matters to be considered at the hearing

in sufficient detail to permit the respondent to prepare and present its response. The statement shall contain the following:

(i) A brief statement of the facts that give rise to the hearing.

(ii) A statement of the issues to be considered at the hearing including relevant statutes and rules. If the statement includes issues not raised in the proof of loss claim or considered by respondent in its decision, respondent may move for abatement of the proceedings for consideration of those issues by respondent. The administrative law judge may abate the proceedings for a period not to exceed 60 days from the issuance of the order to abate. The administrative law judge may extend the time period for good cause upon motion by respondent or by stipulation of the parties. If respondent has not issued a revised decision within the period of abatement, the administrative law judge shall reset the matter for hearing.

(B) Within 20 days of service of the statement, respondent may file with the Office of Administrative Hearings, and serve upon the complainant by personal service or mail a written response to the statement.

(C) The statement of issues and response may be amended upon completion of discovery, except that notice of the amendment shall be no later than 30 days before the date set for hearing.

(6) Where the statement of issues includes a claim for a loss of trust obligations that has been denied by respondent, complainant shall bear the burden of establishing by a preponderance of the evidence that a loss as defined in Section 17304 has occurred and that respondent is required to pay the claim in accordance with this chapter. Each legal issue shall be adjudicated in the proposed decision and the commissioner's decision, except for any issue either withdrawn or waived by complainant or respondent, upon the submission of the case after hearing.

(7) Any party may move for a ~~judgement~~ *judgment* on the pleadings or summary judgment, as a dispositive motion, pursuant to the Rules of Procedure of the Office of Administrative Hearings. The evidence in support of and standards for deciding the motions shall be as set forth in the Code of Civil Procedure. If the administrative law judge denies the motion, the matter shall be heard on the merits by the administrative law judge. If the administrative law judge grants the motion, the order shall be in

the form of a proposed decision to the commissioner pursuant to subdivision (b) of Section 11517 of the Government Code.

(8) Nothing in this section shall be construed to require the losing party to pay the other party's costs and expenses, including attorney's fees.

(9) If the statement of issues is abated and respondent issues a revised decision, the parties may amend their pleadings within a reasonable period of time, as ordered by the administrative law judge.

(c) (1) If a request for hearing includes a claim for loss of trust obligations that has been denied by Fidelity Corporation and the claim involves the factors described in paragraph (3), the commissioner, upon the request of Fidelity Corporation and as provided herein, shall abstain from proceeding with a hearing. The matter may be adjudicated in a court of competent jurisdiction upon the filing of an action by the member or successor in interest. Fidelity Corporation shall notify the commissioner, in writing, of the grounds for abstention of jurisdiction within five days of the filing of the request for a hearing by the member or successor in interest. The commissioner shall rule on the abstention of jurisdiction request within 10 days of the notice and the ruling shall be considered final. In making a determination on the request for abstention, the commissioner may examine and investigate all facts connected with the request for abstention and may request information from any person as deemed necessary.

(2) If the commissioner denies the request for abstention of jurisdiction, the hearing shall be conducted in accordance with subdivision (b), except that compliance by the commissioner with paragraph (5) of subdivision (b) shall be within five days of the ruling denying the abstention request.

(3) The factors requiring abstention of jurisdiction by the commissioner are as follows:

(A) The claim for a loss is based upon an alleged escrow transaction in which an officer, director, trustee, stockholder, manager, or employee of the member was a principal to the transaction.

(B) The claim involves (i) the need to determine conflicting claims or disputes to real property and (ii) there is a potential for double recovery by any principal to an escrow.

(4) The commissioner shall abstain if determination of the claim will cause some escrows to have preferable or favorable treatment over the other escrows held by the member or successor in interest.

SEC. 98. Section 22349.1 of the Financial Code is amended to read:

22349.1. The commissioner shall not approve any licensee to participate in the program~~,~~ unless that licensee has been accepted as a data furnisher by at least one of the national credit reporting agencies for the purpose of reporting borrower payment performance.

SEC. 99. Section 22352 of the Financial Code is amended to read:

22352. (a) Any loan made pursuant to this section shall comply with the following requirements:

(1) The loan shall be unsecured.

(2) Interest on the loan accrues on a simple-interest basis, through the application of a daily periodic rate to the actual unpaid principal balance each day.

(3) The licensee discloses the following to the consumer in writing at the time of application:

(A) The annual percentage rate, the periodic payment amount, and the total finance charge, calculated as required by Federal Reserve Board Regulation Z, as to a loan of an amount and term substantially similar to the loan applied for by the consumer.

(B) That the consumer shall have the right to rescind the loan by notifying the licensee of the consumer's intent to rescind the loan and returning the principal advanced by the end of the business day following the date of the consummation of the loan.

(4) The loan has a minimum principal amount upon origination of two hundred fifty dollars ($250) and a term of not less than the following:

(A) Ninety days for loans whose principal balance upon origination is less than five hundred dollars ($500).

(B) One hundred twenty days for loans whose principal balance upon origination is at least five hundred dollars ($500), but is less than one thousand five hundred dollars ($1,500).

(C) One hundred eighty days for loans whose principal balance upon origination is at least one thousand five hundred dollars ($1,500).

(5) The licensee complies with the requirements of any applicable state or federal law.

(b) As an alternative to the charges authorized by Section 22303 or 22304, a licensee approved by the commissioner to participate in the program may contract for and receive charges for a loan made pursuant to this section at a rate not exceeding the sum of the following:

(1) Two and one-half percent per month on that part of the unpaid principal balance of the loan up to and including, but not in excess of, one thousand dollars ($1,000).

(2) Two and one-sixth percent per month on that portion of the unpaid principal balance of the loan in excess of one thousand dollars ($1,000).

(c) Notwithstanding subdivision (b), a licensee approved by the commissioner to participate in the program shall reduce the rate on each subsequent loan to the same borrower by a minimum of one-twelfth of 1 percent per month, if all of the following conditions are met:

(1) The subsequent loan is originated no more than 180 days after the prior loan is fully repaid.

(2) The borrower was never more than 15 days delinquent on the prior loan.

(3) The prior loan was outstanding for at least one-half of its original term prior to its repayment.

(d) As to any loan made under this section, a licensee approved by the commissioner to participate in the program may contract for and receive an administrative fee, which shall be fully earned immediately upon making the loan, in an amount not in excess of either 5 percent of the principal amount, exclusive of the administrative fee, or sixty-five dollars ($65), whichever is less. A licensee shall not charge the same borrower more than one ~~origination~~ *administrative* fee in any six-month period. An administrative fee shall not be contracted for or received in connection with the refinancing of a loan unless at least one year has elapsed since the receipt of a previous administrative fee paid by the borrower. Only one administrative fee shall be contracted for or received until the loan has been repaid in full. Section 22305 shall not apply to any loan made under this section.

(e) Notwithstanding subdivision (a) of Section 22320.5, a licensee approved by the commissioner to participate in the

program may contract for and receive a delinquency fee that is one of the following amounts:

(1) For a period in default of not less than seven days, an amount not in excess of twelve dollars ($12).

(2) For a period in default of not less than 14 days, an amount not in excess of eighteen dollars ($18).

(f) If a licensee opts to impose a delinquency fee, it shall use the delinquency fee schedule described in subdivision (e), subject to all of the following:

(1) No more than one delinquency fee may be imposed per delinquent payment.

(2) No more than two delinquency fees may be imposed during any period of 30 consecutive days.

(3) No delinquency fee may be imposed on a borrower who is 180 days or more past due if that fee would result in the sum of the borrower's remaining unpaid principal balance, accrued interest, and delinquency fees exceeding 180 percent of the original principal amount of the borrower's loan.

(4) The licensee or any of its wholly owned subsidiaries shall attempt to collect a delinquent payment for a period of at least 30 days following the start of the delinquency before selling or assigning that unpaid debt to an independent party for collection.

(g) The following shall apply to a loan made by a licensee pursuant to this section:

(1) Prior to disbursement of loan proceeds, the licensee shall either (A) offer a credit education program or seminar to the borrower that has been previously reviewed and approved by the commissioner for use in complying with this section; or (B) invite the borrower to a credit education program or seminar offered by an independent third party that has been previously reviewed and approved by the commissioner for use in complying with this section. The borrower shall not be required to participate in either of these education programs or seminars.

(2) The licensee shall report each borrower's payment performance to at least one of the national credit reporting agencies in the United States.

(3) (A) The licensee shall underwrite each loan to determine a borrower's ability and willingness to repay the loan pursuant to the loan terms, and shall not make a loan if it determines, through its underwriting, that the borrower's total monthly debt service

payments, at the time of origination, including the loan for which the borrower is being considered, and across all outstanding forms of credit that can be independently verified by the licensee, exceed 50 percent of the borrower's gross monthly income.

(B) (i) The licensee shall seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self reported by the borrower but not available through independent verification. The licensee shall verify that information using a credit report from at least one of the three major credit bureaus or through other available electronic debt verification services that provide reliable evidence of a borrower's outstanding debt obligations.

(ii) Notwithstanding the verification requirement in subparagraph (A), the licensee shall request from the borrower and include all information obtained from the borrower regarding outstanding deferred deposit transactions in the calculation of the borrower's outstanding debt obligations.

(iii) The licensee shall not be required to consider, for purposes of debt-to-income ratio evaluation, loans from friends or family.

(C) The licensee shall also verify the borrower's income that the licensee relies on to determine the borrower's debt-to-income ratio using information from either of the following:

(i) Electronic means or services that provide reliable evidence of the borrower's actual income.

(ii) Internal Revenue Service Form W-2, tax returns, payroll receipts, bank statements, or other third-party documents that provide reasonably reliable evidence of the borrower's actual income.

(h) (1) Notwithstanding Sections 22311 to 22315, inclusive, no person, in connection with, or incidental to, the making of any loan made pursuant to this article, may offer, sell, or require the borrower to contract for "credit insurance" as defined in paragraph (1) of subdivision (a) of Section 22314 or insurance on tangible personal or real property of the type specified in Section 22313.

(2) Notwithstanding Sections 22311 to 22315, inclusive, no licensee, finder, or any other person that participates in the origination of a loan under this article shall refer a borrower to any other person for the purchase of "credit insurance" as defined in paragraph (1) of subdivision (a) of Section 22314 or insurance on

tangible personal or real property of the type specified in Section 22313.

(i) (1) No licensee shall require, as a condition of providing the loan, that the borrower waive any right, penalty, remedy, forum, or procedure provided for in any law applicable to the loan, including the right to file and pursue a civil action or file a complaint with or otherwise communicate with the commissioner or any court or other public entity, or that the borrower agree to resolve disputes in a jurisdiction outside of California or to the application of laws other than those of California, as provided by law. Any such waiver by a borrower must be knowing, voluntary, and in writing, and expressly not made a condition of doing business with the licensee. Any such waiver that is required as a condition of doing business with the licensee shall be presumed involuntary, unconscionable, against public policy, and unenforceable. The licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not made a condition of the contract with the borrower.

(2) No licensee shall refuse to do business with or discriminate against a borrower or applicant on the basis that the borrower or applicant refuses to waive any right, penalty, remedy, forum, or procedure, including the right to file and pursue a civil action or complaint with, or otherwise notify, the commissioner or any court or other public entity. The exercise of a person's right to refuse to waive any right, penalty, remedy, forum, or procedure, including a rejection of a contract requiring a waiver, shall not affect any otherwise legal terms of a contract or an agreement.

(3) This subdivision shall not apply to any agreement to waive any right, penalty, remedy, forum, or procedure, including any agreement to arbitrate a claim or dispute, after a claim or dispute has arisen. Nothing in this subdivision shall affect the enforceability or validity of any other provision of the contract.

(j) This section shall not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more as determined in accordance with Section 22251. For purposes of this subdivision, "bona fide principal amount" shall be determined in accordance with Section 22251.

SEC. 100. Section 22355 of the Financial Code is amended to read:

22355. (a) At the time the finder receives or processes an application for a ~~pilot~~ program loan, the finder shall provide the following statement to the applicant, on behalf of the licensee, in no smaller than 10-point type, and shall ask the applicant to acknowledge receipt of the statement in writing:

"Your loan application has been referred to us by [Name of Finder]. We may pay a fee to [Name of Finder] for the successful referral of your loan application. IF YOU ARE APPROVED FOR THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP WITH [NAME OF LICENSEE]. If you wish to report a complaint about [Name of Finder] or [Name of Licensee] regarding this loan transaction, you may contact the California Department of Corporations at 1-866-ASK-CORP (1-866-275-2677), or file your complaint online at www.corp.ca.gov."

(b) If the loan is consummated, the licensee shall mail or give to the borrower a copy of the disclosure notice within two weeks of the date of the loan consummation.

SEC. 101. Section 2250 of the Fish and Game Code is amended to read:

2250. It is unlawful to import or transport *any live muskrat (genus Ondatra)* into, or possess any live muskrat ~~(genus Ondatra)~~ in, California except under permit issued by the department pursuant to Section 2118, or as otherwise provided by law. A county agricultural commissioner, fish and game deputy, or state plant quarantine officer may enter upon lands or waters west of the crest of the Cascade-Sierra Nevada mountain system, and west and south of the Tehachapi, Liebre, San Gabriel, San ~~Bernadino~~ *Bernardino*, San Jacinto, Cuyamaca, and connected mountains south to the international boundary, or in any watershed tributary to, or draining into, the Pacific Ocean to remove or destroy the muskrats.

SEC. 102. Section 2942 of the Fish and Game Code is amended to read:

2942. (a) There is in the Natural Resources Agency the Salton Sea Restoration Council, which is established as a state agency to oversee the restoration of the Salton Sea, including all of the following:

(1) Early start habitat demonstration projects.

(2) Biological investigations relating to the restoration of the Salton Sea.

(3) Investigations of water quality, sedimentation, and inflows relating to the restoration of the Salton Sea.

(4) Air quality investigations relating to the restoration of the Salton Sea.

(5) Geotechnical investigations relating to the restoration of the Salton Sea.

(6) Coordination with the Imperial Irrigation District, the Coachella Valley Water District, the Torres Martinez *Desert Cahuilla Indian* Tribe, and other landowners in the vicinity of the Salton Sea.

(7) Investigations of access and utility agreements relating to the restoration of the Salton Sea.

(b) For the purpose of developing a restoration plan pursuant to this section, the council shall evaluate Salton Sea restoration plans, including, but not limited to, the alternatives described in Chapter 3 of Volume I of the Salton Sea *Ecosystem* Restoration Program Draft Programmatic Environmental Impact Report, dated October 2006, and the program components of those alternatives.

(c) The council shall report to the Governor and the Legislature by June 30, 2013, with a recommended Salton Sea restoration plan. In recommending a restoration plan, the council shall consider the impacts of the restoration plan on air quality, fish and wildlife habitat, water quality, and the technical and financial feasibility of the restoration plan.

(d) In conducting its duties pursuant to this section, the council shall comply with both of the following requirements:

(1) The council shall act consistent with the purposes of the Salton Sea Restoration Fund specified in Section 2932.

(2) The council shall work collaboratively with local governments and interested parties.

SEC. 103. Section 6612 of the Fish and Game Code is amended to read:

6612. (a) Upon receipt of an application to partially remove an offshore oil structure pursuant to this chapter, the department shall determine whether the application is complete and includes all information needed by the department.

(b) (1) Upon a determination that the application is complete, the applicant shall provide surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances, determined by the department to be available and adequate, to ensure that the applicant will provide sufficient funds to the department, council, commission, and conservancy to carry out all required activities pursuant to this article, including all of the following:

(A) Environmental review of the proposed project pursuant to Section 6604.

(B) A determination of net environmental benefit pursuant to Section 6613.

(C) A determination of cost savings pursuant to Section 6614.

(D) Preparation of a management plan for the structure pursuant to Section 6615.

(E) Implementation of the management plan and ongoing maintenance of the structure after the department takes title pursuant to Section 6620.

(F) Development of an advisory spending plan pursuant to Section 6621.

(G) Other activities undertaken to meet the requirements of this article, including the costs of reviewing applications for completeness, *and* reviewing, approving, and permitting the proposed project, which includes the costs of determining whether the project meets the requirements of all applicable laws and regulations and the costs of environmental assessment and review.

(2) The department shall consult with the council, commission, and conservancy in determining appropriate funding for activities to be carried out by those agencies.

(3) The funds provided pursuant to paragraph (1) shall not be considered in the calculation of cost savings pursuant to Section 6614 or the apportionment of cost savings pursuant to Section 6618.

(c) The first person to file an application on and after January 1, 2011, to partially remove an offshore oil structure pursuant to this chapter, shall pay, in addition to all costs identified under subdivision (b), the startup costs incurred by the department or the commission to implement this chapter, including the costs to develop and adopt regulations pursuant to this chapter. This

payment of startup costs shall be reimbursed by the department as provided in paragraph (3) of subdivision (c) of Section 6618.

(d) As soon as feasible after reaching the agreement pursuant to subdivision (b), the lead agency shall begin the environmental review of the proposed project as required pursuant to Section 6604.

SEC. 104. Section 481 of the Food and Agricultural Code is amended to read:

481. (a) The department may, with the approval of the Governor, cooperate with officials of the United States Department of Agriculture or with officials of other states in the conduct of pest or disease investigations outside of this state in the interest of the protection of the agricultural industry of this state from any pest or disease which is not generally distributed in this state.

(b) The department may enter into cooperative agreements with the United States Department of Agriculture to carry out a program for the prevention and control of avian influenza. The department shall, in accordance with the Administrative ~~Procedures~~ *Procedure* Act, adopt any regulations necessary to implement program requirements set out in the agreement.

SEC. 105. Section 11504 of the Food and Agricultural Code is amended to read:

11504. Prior to the adoption of regulations by a commissioner, a notice of intention to adopt regulations shall be published in the county, pursuant to Section 6061 of the ~~Goverment~~ *Government* Code, at least 10 days in advance of the time the regulations are to be adopted, amended, or repealed.

SEC. 106. Section 13184 of the Food and Agricultural Code is amended to read:

13184. (a) In implementing Section 13183, the department shall establish and maintain an Internet ~~website~~ *Web site* as a comprehensive directory of resources describing and promoting least-hazardous practices at schoolsites. The ~~website~~ *Web site* shall also make available an electronic copy of the model program guidebook, its updates, and supporting documentation. The department shall also establish and maintain on its ~~website~~ *Web site* an easily identified link that provides the public with all appropriate information regarding the public health and environmental impacts of pesticide active ingredients and ways to reduce the use of pesticides at school facilities.

(b) It is the intent of the Legislature that the state assist school districts to ensure that compliance with Section 17612 of the Education Code is simple and inexpensive. The department shall include in its ~~website~~ *Web site* Internet-based links that allow schools to properly identify and list the active ingredients of pesticide products they expect to be applied during the upcoming year. Use of these links by schools is not mandatory but shall be made available to all schools at no cost. The department shall ensure that adequate resources are available to respond to inquiries from school facilities or districts regarding the use of integrated pest management practices.

SEC. 107. Section 79691 of the Food and Agricultural Code is amended to read:

79691. A civil penalty not exceeding one thousand dollars ($1,000) may be levied by the commission upon a person who willfully does any of the following:

(a) Renders or furnishes a false report, statement, or record required by the commission.

(b) Fails to render or furnish a report, statement, or record required by the commission.

(c) Conducts ~~oneself~~ *himself or herself* in any way to affect the shipment of pollination units, bees, honey, or hive products in order to avoid payment of assessments.

(d) Secretes, destroys, or alters records required to be kept by this chapter.

SEC. 108. Section 79702 of the Food and Agricultural Code is amended to read:

79702. Following a hearing, and favorable referendum if required, the process specified in Section 79701 shall be conducted by the secretary every fifth year thereafter, between January 1 and December 31, unless a referendum is conducted as the result of a petition pursuant to Section 79703.

SEC. 109. Section 831.7 of the Government Code is amended to read:

831.7. (a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or

having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.

(b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on property of a public entity that creates a substantial, as distinguished from a minor, trivial, or insignificant, risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

(1) Water contact activities, except diving, in places where, or at a time when, lifeguards are not provided and reasonable warning thereof has been given, or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.

(3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, self-contained underwater breathing apparatus (SCUBA) diving, spelunking, skydiving, sport parachuting, paragliding, body contact sports, surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, "mountain bicycling" does not include riding a bicycle on paved pathways, roadways, or sidewalks. For the purpose of this paragraph, "body contact sports" means sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants.

(c) (1) Notwithstanding subdivision (a), this section does not limit liability that would otherwise exist for any of the following:

(A) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(B) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for

a specific fee. For the purpose of this subparagraph, ~~a~~ "specific fee" does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(C) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(D) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this ~~paragraph~~ *subparagraph*, promotional literature or a public announcement or advertisement that merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(E) An act of gross negligence by a public entity or a public employee that is the proximate cause of the injury.

(2) Nothing in this subdivision creates a duty of care or basis of liability for personal injury or damage to personal property.

(d) Nothing in this section limits the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

SEC. 110. Section 901 of the Government Code is amended to read:

901. For the purpose of computing the time limits prescribed by Sections 911.2, 911.4, ~~912, and~~ 945.6, *and 946.6,* the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if there were no requirement that a claim be presented to and be acted upon by the public entity before an action

could be commenced thereon. However, the date upon which a cause of action for equitable indemnity or partial equitable indemnity accrues shall be the date upon which a defendant is served with the complaint giving rise to the defendant's claim for equitable indemnity or partial equitable indemnity against the public entity.

SEC. 111. Section 912.5 of the Government Code is amended to read:

912.5. (a) The Trustees of the California State University shall act on a claim against the California State University in accordance with the procedure that the Trustees of the California State University ~~provides~~ *provide* by rule.

(b) Nothing in this section authorizes the Trustees of the California State University to adopt any rule that is inconsistent with this part.

(c) If a claim for money or damages against the California State University is mistakenly presented to the Victim Compensation and Government Claims Board, the Victim Compensation and Government Claims Board shall immediately notify the claimant of the error and shall include information on proper filing of the claim.

SEC. 112. Section 935.9 of the Government Code is amended to read:

935.9. The Trustees of the California State University may adjust and pay any claim arising out of the activities of the California State University. The Trustees of the California State University may, by rule, authorize the Office of Risk Management at the ~~Chancellor's~~ Office of the *Chancellor of the* California State University to perform the functions of the Trustees of the California State University under this section.

SEC. 113. Section 3254.5 of the Government Code is amended to read:

3254.5. (a) An administrative appeal instituted by a firefighter under this chapter shall be conducted in conformance with rules and procedures adopted by the employing department or licensing or certifying agency that are in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

(b) Notwithstanding subdivision (a), if the employing department is subject to a memorandum of understanding that provides for

binding arbitration of administrative appeals, the arbitrator or arbitration panel shall serve as the hearing officer in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 and, notwithstanding any other provision, that hearing officer's decision shall be binding. However, a memorandum of understanding negotiated with an employing agency shall not control the process for administrative appeals instituted with licensing or certifying agencies. Any administrative appeal instituted with licensing or certifying agencies shall adhere to the requirements prescribed in subdivision (a).

SEC. 114. Section 6585 of the Government Code is amended to read:

6585. The definitions in this section shall govern the construction and interpretation of this article.

(a) (1) Except as provided in paragraphs (2) and (3), "authority" means an entity created pursuant to Article 1 (commencing with Section 6500).

(2) In the case of an authority issuing bonds pursuant to this chapter in which VLF receivables, as defined in subdivision (j), are pledged to the payment of the bonds, other than VLF receivables so pledged for a county of the first class, an authority shall consist of not ~~less~~ *fewer* than 100 local agencies.

(3) In the case of an authority issuing bonds pursuant to this chapter in which Proposition 1A receivables, as defined in subdivision (g), are pledged to the payment of the bonds, an authority shall consist of not ~~less~~ *fewer* than 250 local agencies.

(b) "Bond purchase agreement" means a contractual agreement executed between the authority and the local agency whereby the authority agrees to purchase bonds of the local agency.

(c) "Bonds" means all of the following:

(1) Bonds, including, but not limited to, assessment bonds, redevelopment agency bonds, ~~government issued~~ *government-issued* mortgage bonds, and industrial development bonds.

(2) Notes, including bond, revenue, tax, or grant anticipation notes.

(3) Commercial paper, floating rate and variable maturity securities, and any other evidences of indebtedness.

(4) Certificates of participation or lease-purchase agreements.

(d) "Cost," as applied to a public capital improvement or portion thereof financed under this part, means all of the following:

(1) All or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a public capital improvement.

(2) The cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved~~;~~, *and* the cost of all machinery and equipment.

(3) Finance charges.

(4) Interest prior to, during, and for a period after, completion of that construction, as determined by the authority.

(5) Provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements.

(6) The cost of architectural, engineering, financial and legal services, plans, specifications, estimates, and administrative expenses.

(7) Other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing of any public capital improvement.

(e) "Legislative body" means the governing body of a local agency.

(f) "Local agency" means a party to the agreement creating the authority, or an agency or subdivision of that party, sponsoring a project of public capital improvements, or any city, county, city and county, authority, district, or public corporation of this state.

(g) "Proposition 1A receivable" means the right to payment of moneys due or to become due to a local agency, pursuant to clause (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution and Section 100.06 of the Revenue and Taxation Code.

(h) "Public capital improvements" means one or more projects specified in Section 6546.

(i) "Revenue" means income and receipts of the authority from any of the following:

(1) A bond purchase agreement.

(2) Bonds acquired by the authority.

(3) Loans installment sale agreements, and other revenue-producing agreements entered into by the authority.

(4) Projects financed by the authority.

(5) Grants and other sources of income.

(6) VLF receivables purchased pursuant to Section 6588.5.

(7) Proposition 1A receivables purchased pursuant to Section 6588.6.

(8) Interest or other income from any investment of any money in any fund or account established for the payment of principal or interest or premiums on bonds.

(j) "VLF receivable" means the right to payment of moneys due or to become due to a local agency out of funds payable in connection with vehicle license fees to a local agency pursuant to Section 10754.11 of the Revenue and Taxation Code.

(k) "Working capital" means money to be used by, or on behalf of, a local agency for any purpose for which a local agency may borrow money pursuant to Section 53852, or for any purpose for which a VLF receivable or a Proposition 1A receivable sold to an authority could have been used by the local agency.

SEC. 115. Section 7480 of the Government Code, as amended by Section 30 of Chapter 697 of the Statutes of 2010, is repealed.

~~7480. Nothing in this chapter shall prohibit any of the following:~~

~~(a) The dissemination of any financial information that is not identified with, or identifiable as being derived from, the financial records of a particular customer.~~

~~(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association in this state, the police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the requesting party for a period 30 days prior to, and up to 30 days~~

~~following, the date of occurrence of the alleged illegal act involving the account:~~

~~(1) The number of items dishonored.~~

~~(2) The number of items paid that created overdrafts.~~

~~(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.~~

~~(4) The dates and amounts of deposits and debits and the account balance on these dates.~~

~~(5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.~~

~~(6) The date the account opened and, if applicable, the date the account closed.~~

~~(7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution for dates on which illegal acts involving the account were alleged to have occurred. Nothing in this paragraph does any of the following:~~

~~(A) Requires a financial institution to produce a photograph or video recording if it does not possess the photograph or video recording.~~

~~(B) Affects any existing civil immunities as provided in Section 47 of the Civil Code or any other provision of law.~~

~~(8) A bank, credit union, or savings association that provides the requesting party with copies of one or more complete account statements prepared in the regular course of business shall be deemed to be in compliance with paragraphs (1), (2), (3), and (4).~~

~~(c) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, access cards, or other orders drawn upon any bank, credit union, or savings association doing business in this state, the police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, may request, with the consent of the accountholder, the bank, credit union, or savings association to furnish, and the bank, credit union, or savings association shall~~

~~furnish, a statement setting forth the following information with respect to a customer account specified by the requesting party for a period 30 days prior to, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:~~

~~(1) The number of items dishonored.~~

~~(2) The number of items paid that created overdrafts.~~

~~(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.~~

~~(4) The dates and amounts of deposits and debits and the account balance on these dates.~~

~~(5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.~~

~~(6) The date the account opened and, if applicable, the date the account closed.~~

~~(7) Surveillance photographs and video recordings of persons accessing the crime victim's financial account via an automated teller machine (ATM) or from within the financial institution for dates on which illegal acts involving this account were alleged to have occurred. Nothing in this paragraph does any of the following:~~

~~(A) Requires a financial institution to produce a photograph or video recording if it does not possess the photograph or video recording.~~

~~(B) Affects any existing civil immunities as provided in Section 47 of the Civil Code or any other provision of law.~~

~~(8) A bank, credit union, or savings association doing business in this state that provides the requesting party with copies of one or more complete account statements prepared in the regular course of business shall be deemed to be in compliance with paragraphs (1), (2), (3), and (4).~~

~~(d) For purposes of subdivision (c), consent of the accountholder shall be satisfied if an accountholder provides to the financial institution and the person or entity seeking disclosure, a signed and dated statement containing all of the following:~~

~~(1) Authorization of the disclosure for the period specified in subdivision (c).~~

~~(2) The name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained.~~

~~(3) A description of the financial records that are authorized to be disclosed.~~

~~(e) (1) The Attorney General, a supervisory agency, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the Prohibition of Gift and Death Taxes (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), a police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, a county welfare department when investigating welfare fraud, a county auditor-controller or director of finance when investigating fraud against the county, or the Department of Corporations when conducting investigations in connection with the enforcement of laws administered by the Commissioner of Corporations, from requesting of an office or branch of a financial institution, and the office or branch from responding to a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of the account or accounts.~~

~~(2) No additional information beyond that specified in this section shall be released to a county welfare department without either the accountholder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.~~

~~(3) A county auditor-controller or director of finance who unlawfully discloses information he or she is authorized to request under this subdivision is guilty of the unlawful disclosure of confidential data, a misdemeanor, which shall be punishable as set forth in Section 7485.~~

~~(f) The examination by, or disclosure to, any supervisory agency of financial records that relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes that grant authority to examine, audit, or require reports of financial records or financial institutions as follows:~~

~~(1) With respect to the Commissioner of Financial Institutions by reference to Division 1 (commencing with Section 99), Division 1.5 (commencing with Section 4800), Division 2 (commencing with Section 5000), Division 5 (commencing with Section 14000),~~

~~Division 7 (commencing with Section 18000), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000), of the Financial Code.~~

~~(2) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.~~

~~(3) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.~~

~~(g) The disclosure to the Franchise Tax Board of (1) the amount of any security interest that a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return that are required to be filed by the financial institution pursuant to Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or Part 18 (commencing with Section 38001), of the Revenue and Taxation Code.~~

~~(h) The disclosure to the State Board of Equalization of any of the following:~~

~~(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404, 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the Revenue and Taxation Code.~~

~~(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Part 1 (commencing with Section 6001), Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), Part 13 (commencing with Section 30001), Part 14 (commencing with Section 32001), and Part 17 (commencing with Section 37001), of Division 2 of the Revenue and Taxation Code.~~

~~(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.~~

~~(i) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.~~

~~(j) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in~~

~~a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.~~

~~(k) The disclosure by a construction lender, as defined in Section 8006 of the Civil Code, to the Registrar of Contractors, of information concerning the making of progress payments to a prime contractor requested by the registrar in connection with an investigation under Section 7108.5 of the Business and Professions Code.~~

~~(*l*) Upon receipt of a written request from a local child support agency referring to a support order pursuant to Section 17400 of the Family Code, a financial institution shall disclose the following information concerning the account or the person named in the request, whom the local child support agency shall identify, whenever possible, by social security number:~~

~~(1) If the request states the identifying number of an account at a financial institution, the name of each owner of the account.~~

~~(2) Each account maintained by the person at the branch to which the request is delivered, and, if the branch is able to make a computerized search, each account maintained by the person at any other branch of the financial institution located in this state.~~

~~(3) For each account disclosed pursuant to paragraphs (1) and (2), the account number, current balance, street address of the branch where the account is maintained, and, to the extent available through the branch's computerized search, the name and address of any other person listed as an owner.~~

~~(4) Whenever the request prohibits the disclosure, a financial institution shall not disclose either the request or its response, to an owner of the account or to any other person, except the officers and employees of the financial institution who are involved in responding to the request and to attorneys, employees of the local child support agencies, auditors, and regulatory authorities who have a need to know in order to perform their duties, and except as disclosure may be required by legal process.~~

~~(5) No financial institution, or any officer, employee, or agent thereof, shall be liable to any person for (A) disclosing information in response to a request pursuant to this subdivision, (B) failing to notify the owner of an account, or complying with a request under this paragraph not to disclose to the owner, the request or disclosure under this subdivision, or (C) failing to discover any account owned~~

~~by the person named in the request pursuant to a computerized search of the records of the financial institution.~~

~~(6) The local child support agency may request information pursuant to this subdivision only when the local child support agency has received at least one of the following types of physical evidence:~~

~~(A) Any of the following, dated within the last three years:~~

~~(i) Form 599.~~

~~(ii) Form 1099.~~

~~(iii) A bank statement.~~

~~(iv) A check.~~

~~(v) A bank passbook.~~

~~(vi) A deposit slip.~~

~~(vii) A copy of a federal or state income tax return.~~

~~(viii) A debit or credit advice.~~

~~(ix) Correspondence that identifies the child support obligor by name, the bank, and the account number.~~

~~(x) Correspondence that identifies the child support obligor by name, the bank, and the banking services related to the account of the obligor.~~

~~(xi) An asset identification report from a federal agency.~~

~~(B) A sworn declaration of the custodial parent during the 12 months immediately preceding the request that the person named in the request has had or may have had an account at an office or branch of the financial institution to which the request is made.~~

~~(7) Information obtained by a local child support agency pursuant to this subdivision shall be used only for purposes that are directly connected with the administration of the duties of the local child support agency pursuant to Section 17400 of the Family Code.~~

~~(m) (1) As provided in paragraph (1) of subdivision (c) of Section 666 of Title 42 of the United States Code, upon receipt of an administrative subpoena on the current federally approved interstate child support enforcement form, as approved by the federal Office of Management and Budget, a financial institution shall provide the information or documents requested by the administrative subpoena.~~

~~(2) The administrative subpoena shall refer to the current federal Office of Management and Budget control number and be signed by a person who states that he or she is an authorized agent of a~~

~~state or county agency responsible for implementing the child support enforcement program set forth in Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code. A financial institution may rely on the statements made in the subpoena and has no duty to inquire into the truth of any statement in the subpoena.~~

~~(3) If the person who signs the administrative subpoena directs a financial institution in writing not to disclose either the subpoena or its response to any owner of an account covered by the subpoena, the financial institution shall not disclose the subpoena or its response to the owner.~~

~~(4) No financial institution, or any officer, employee, or agent thereof, shall be liable to any person for (A) disclosing information or providing documents in response to a subpoena pursuant to this subdivision, (B) failing to notify any owner of an account covered by the subpoena or complying with a request not to disclose to the owner, the subpoena or disclosure under this subdivision, or (C) failing to discover any account owned by the person named in the subpoena pursuant to a computerized search of the records of the financial institution.~~

~~(n) The dissemination of financial information and records pursuant to any of the following:~~

~~(1) Compliance by a financial institution with the requirements of Section 2892 of the Probate Code.~~

~~(2) Compliance by a financial institution with the requirements of Section 2893 of the Probate Code.~~

~~(3) An order by a judge upon a written ex parte application by a peace officer showing specific and articulable facts that there are reasonable grounds to believe that the records or information sought are relevant and material to an ongoing investigation of a felony violation of Section 186.10 or of any felony subject to the enhancement set forth in Section 186.11.~~

~~(A) The ex parte application shall specify with particularity the records to be produced, which shall be only those of the individual or individuals who are the subject of the criminal investigation.~~

~~(B) The ex parte application and any subsequent judicial order shall be open to the public as a judicial record unless ordered sealed by the court, for a period of 60 days. The sealing of these records may be extended for 60-day periods upon a showing to the court that it is necessary for the continuance of the investigation.~~

~~Sixty-day extensions may continue for up to one year or until termination of the investigation of the individual or individuals, whichever is sooner.~~

~~(C) The records ordered to be produced shall be returned to the peace officer applicant or his or her designee within a reasonable time period after service of the order upon the financial institution.~~

~~(D) Nothing in this subdivision shall preclude the financial institution from notifying a customer of the receipt of the order for production of records unless a court orders the financial institution to withhold notification to the customer upon a finding that the notice would impede the investigation.~~

~~(E) Where a court has made an order pursuant to this paragraph to withhold notification to the customer under this paragraph, the peace officer or law enforcement agency who obtained the financial information shall notify the customer by delivering a copy of the ex parte order to the customer within 10 days of the termination of the investigation.~~

~~(4) No financial institution, or any officer, employee, or agent thereof, shall be liable to any person for any of the following:~~

~~(A) Disclosing information to a probate court pursuant to Sections 2892 and 2893.~~

~~(B) Disclosing information in response to a court order pursuant to paragraph (3).~~

~~(C) Complying with a court order under this subdivision not to disclose to the customer, the order, or the dissemination of information pursuant to the court order.~~

~~(o) Disclosure by a financial institution to a peace officer, as defined in Section 830.1 of the Penal Code, pursuant to the following:~~

~~(1) Paragraph (1) of subdivision (a) of Section 1748.95 of the Civil Code, provided that the financial institution has first complied with the requirements of paragraph (2) of subdivision (a) and subdivision (b) of Section 1748.95 of the Civil Code.~~

~~(2) Paragraph (1) of subdivision (a) of Section 4002 of the Financial Code, provided that the financial institution has first complied with the requirements of paragraph (2) of subdivision (a) and subdivision (b) of Section 4002 of the Financial Code.~~

~~(3) Paragraph (1) of subdivision (a) of Section 22470 of the Financial Code, provided that any financial institution that is a finance lender has first complied with the requirements of~~

~~paragraph (2) of subdivision (a) and subdivision (b) of Section 22470 of the Financial Code.~~

~~(p) When the governing board of the Public Employees' Retirement System or the State Teachers' Retirement System certifies in writing to a financial institution that a benefit recipient has died and that transfers to the benefit recipient's account at the financial institution from the retirement system occurred after the benefit recipient's date of death, the financial institution shall furnish the retirement system with the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of the benefit recipient's death, or if the account has been closed, the name and address of the person who closed the account.~~

~~(q) When the retirement board of a retirement system established under the County Employees Retirement Law of 1937 certifies in writing to a financial institution that a retired member or the beneficiary of a retired member has died and that transfers to the account of the retired member or beneficiary of a retired member at the financial institution from the retirement system occurred after the date of death of the retired member or beneficiary of a retired member, the financial institution shall furnish the retirement system with the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of death of the retired member or beneficiary of a retired member, or if the account has been closed, the name and address of the person who closed the account.~~

~~(r) When the Franchise Tax Board certifies in writing to a financial institution that (1) a taxpayer filed a tax return that authorized a direct deposit refund with an incorrect financial institution account or routing number that resulted in all or a portion of the refund not being received, directly or indirectly, by the taxpayer; (2) the direct deposit refund was not returned to the Franchise Tax Board; and (3) the refund was deposited directly on a specified date into the account of an accountholder of the financial institution who was not entitled to receive the refund, then the financial institution shall furnish to the Franchise Tax Board the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of direct deposit refund, or if the account has been closed, the name and address of the person who closed the account.~~

SEC. 116. Section 7513.87 of the Government Code is amended to read:

7513.87. (a) A person acting as a placement agent in connection with any potential system investment made by a local public retirement system shall file any applicable reports with a local government agency that requires lobbyists to register and file reports and shall comply with any applicable requirements imposed by a local government agency pursuant to Section 81013.

(b) This section does not apply to an individual who is an employee, officer, director, equityholder, partner, member, or trustee of an external manager *and* who spends one-third or more of his or her time, during a calendar year, managing the securities or assets owned, controlled, invested, or held by the external manager.

SEC. 117. Section 7514 of the Government Code, as added by Section 1 of Chapter 220 of the Statutes of 1984, is amended and renumbered to read:

~~7514.~~

7513.97. As used in Section 11 of Article VII of the Constitution, the following terms have the following meanings:

(a) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the Board of Administration of the Public Employees' Retirement System.

(b) "Beneficiary" means any person or corporation designated by a member, a retired member, or statute, or the estate of a member or retired member designated by the member or retired member, to receive a benefit under the retirement system, on account of the death of the member or retired member.

(c) "Salary" means the actual wages paid but shall not include any other benefits, such as, but not limited to, health and dental benefits, retirement benefits, vacation pay, and per diem.

(d) "Unmodified pension or retirement allowance" means the maximum pension or retirement allowance receivable, prior to any selection of an optional settlement and includes any cost-of-living adjustment and any other increase granted subsequent to retirement.

SEC. 118. Section 11019.5 of the Government Code is amended to read:

11019.5. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation,

any state department and the Controller pursuant to ~~subdivision (b) of~~ Section 15202, after receiving a request by a board of supervisors of an affected county which has a population of 150,000 or less as of January 1, 1983, and upon determining that advance payment is essential to the effective implementation of a particular program, and further to the extent that funds are available, and not more frequently than once each month, may advance to the county an amount not to exceed one-twelfth of the annual allocations, subventions, or reimbursements required for the delivery of services by a county.

(b) The director of each department and the Controller shall promulgate regulations or guidelines and a plan to establish control procedures to define the scope of operational information required from a county in order to guarantee advance payments pursuant to this section. No county may receive an advance payment unless the county has complied with the provisions of the department's plan and regulations. Each department plan shall be approved by the Department of Finance prior to its implementation.

(c) Claim schedules for advance payments shall be presented to the appropriate department in the manner prescribed by the department. Payment of claims shall be made within 60 days after a claim is received by the department.

(d) Each department and the Controller shall review periodically and adjust advances to actual expenditures for the claim period. Additionally, each department and the Controller shall take into consideration the timing of the implementation of new programs in the computation of advances. The authority contained in this chapter shall not supersede or limit any other provision of law authorizing the state to conduct required audits of claims transactions.

(e) A county, upon determining that an advance payment is essential for the effective implementation of a particular program, to the extent funds are available, and not more frequently than once each month, may advance to other affected local public agencies located within its jurisdiction ~~(i.e.~~, *including, but not limited to*, school districts, special districts, *or* cities, ~~etc.)~~ an amount not to exceed one-twelfth of the annual allocations, reimbursements, or subventions required for the delivery of services pursuant to related state and federal laws.

(f) This section does not apply to the State Department of Social Services.

SEC. 119. Section 11544 of the Government Code, as added by Section 32 of Chapter 74 of the Statutes of 2005, is repealed.

~~11544. (a) The Department of Technology Services Revolving Fund, hereafter known as the fund, is hereby created within the State Treasury. The fund shall be administered by the director, pursuant to the department's plan of operations, to receive all revenues from the sale of technology or technology services provided for in this chapter and all other moneys properly credited to the board and department from any other source, and, subject to appropriation by the Legislature, to pay all costs arising from this chapter, including, but not limited to, operating and other expenses of the board and department and costs associated with approved information technology projects, and to establish reserves. At the discretion of the director, segregated, dedicated accounts within the fund may be established.~~

~~(b) The fund shall consist of all of the following:~~

~~(1) Moneys appropriated and made available by the Legislature for the purpose of this chapter.~~

~~(2) Any other moneys that may be made available to the department for the purpose of this chapter from any other source, including the return from investments of moneys by the Treasurer.~~

~~(c) The department may collect payments from public agencies for providing services to those agencies that the agencies have contracted with the department to provide. The department may require monthly payments by client agencies for the services the agencies have contracted the department to provide. Pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the department, consistent with the annual budget of each department, to the fund. The department shall notify each affected state agency upon requesting the Controller to make the transfer.~~

~~(d) If the balance remaining in the fund at the end of any fiscal year exceeds 25 percent of the department's current fiscal year budget, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.~~

SEC. 120. Section 12517 of the Government Code is amended to read:

12517. When in his *or her* opinion it may be necessary for the collection or enforcement of any judgment in favor or for the use of the state, the Attorney General shall institute and prosecute, ~~in~~ *on* behalf of the state, actions or proceedings to set aside and annul all conveyances fraudulently made by judgment debtors. When allowed by the Department of General Services, the necessary cost shall be paid out of any available appropriation.

SEC. 121. Section 12627 of the Government Code is amended to read:

12627. The Attorney General shall adopt regulations pursuant to the portion of the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) pertaining to rulemaking, as follows:

(a) Regulations on the standards and requirements that organizations must meet that are consistent with the regulations adopted by the USIA pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. Sec. 2451) as set forth in Section 514.1 and following of Title 22 of the Code of Federal Regulations as those regulations existed on March 19, 1993. If the federal regulations adopted by the USIA at a minimum require the same standards and requirements of this article, the Attorney General shall permit organizations designated by the USIA pursuant to those regulations to, in lieu of documentation that would otherwise be required by this article and the regulations adopted pursuant to this subdivision, provide evidence of designation by the USIA.

(b) Any regulations that are necessary for the administration of this article.

SEC. 122. Section 14661.1 of the Government Code is amended to read:

14661.1. (a) For purposes of this section, the definitions in subdivision (a) of Section 13332.19 shall apply. For purposes of subdivision (a) of Section 13332.19, references to the Department of General Services shall be deemed to be references to the Department of General Services or the Department of Corrections and Rehabilitation, as applicable.

(b) Notwithstanding any provision of the Public Contract Code or any other provision of law, when the Legislature appropriates funds for a specific project, or for any project using funds appropriated pursuant to Chapter 3.2.1 (commencing with Section

15819.40) or 3.2.2 (commencing with Section 15819.41) of Part 10b ~~of this division~~, the Director of General Services or the Secretary of the Department of Corrections and Rehabilitation, as appropriate, may contract and procure state office facilities and prison facilities pursuant to this section.

(c) Prior to contracting with a design-build entity for the procurement of a state office facility or prison facility under this section, the Director of General Services or the Secretary of the Department of Corrections and Rehabilitation shall:

(1) Prepare a program setting forth the performance criteria for the design-build project. The performance criteria shall be prepared by a design professional duly licensed and registered in the State of California.

(2) (A) Establish a competitive prequalification and selection process for design-build entities, including any subcontractors listed at the time of bid, that clearly specifies the prequalification criteria, and states the manner in which the winning design-build entity will be selected.

(B) Prequalification shall be limited to consideration of all of the following criteria:

(i) Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.

(ii) Submission of evidence that establishes that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(iii) Submission of a proposed project management plan that establishes that the design-build entity has the experience, competence, and capacity needed to effectively complete the project.

(iv) Submission of evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the Department of General Services or the Department of Corrections and Rehabilitation that the design-build entity has the capacity to complete the project.

(v) Provision of a declaration certifying that applying members of the design-build entity have not had a surety company finish work on any project within the last five years.

(vi) Provision of information and a declaration providing detail concerning all of the following:

(I) Any construction or design claim or litigation totaling more than five hundred thousand dollars ($500,000) or 5 percent of the annual value of work performed, whichever is less, settled against any member of the design-build entity over the last five years.

(II) Serious violations of the California Occupational Safety and Health Act of 1973, as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, settled against any member of the design-build entity.

(III) Violations of federal or state law, including, but not limited to, those laws governing the payment of wages, benefits, or personal income tax withholding, of Federal Insurance Contributions Act (FICA) withholding requirements, state disability insurance withholding, or unemployment insurance payment requirements, settled against any member of the design-build entity over the last five years. For purposes of this subclause, only violations by a design-build member as an employer shall be deemed applicable, unless it is shown that the design-build entity member, in his or her capacity as an employer, had knowledge of his or her subcontractor's violations or failed to comply with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code.

(IV) Information required by Section 10162 of the Public Contract Code.

(V) Violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations or complaints.

(VI) Any conviction of any member of the design-build entity of submitting a false or fraudulent claim to a public agency over the last five years.

(vii) Provision of a declaration that the design-build entity will comply with all other provisions of law applicable to the project, including, but not limited to, the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(C) The Director of General Services or the Secretary of the Department of Corrections and Rehabilitation, when requested by the design-build entity, shall hold in confidence any information required by clauses (i) to (vi), inclusive, of subparagraph (B).

(D) Any declaration required under subparagraph (B) shall state that reasonable diligence has been used in its preparation and that it is true and complete to the best of the signer's knowledge. A person who certifies as true any material matter that he or she knows to be false is guilty of a misdemeanor and shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

(3) (A) Determine, as he or she deems in the best interests of the state, which of the following methods listed in subparagraph (B) will be used as the process for the winning design-build entity. He or she shall provide a notification to the State Public Works Board, regarding the method selected for determining the winning design-build entity, at least 30 days prior to publicizing the design-build solicitation package.

(B) The Director of General Services or the Secretary of the Department of Corrections and Rehabilitation shall make his or her determination by choosing one of the following methods:

(i) A design-build competition based upon performance, price, and other criteria set forth by the Department of General Services or the Department of Corrections and Rehabilitation in the design-build solicitation package. The Department of General Services or the Department of Corrections and Rehabilitation shall establish technical criteria and methodology, including price, to evaluate proposals and shall describe the criteria and methodology in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value in meeting the interests of the Department of General Services or the Department of Corrections and Rehabilitation and meeting the objectives of the project. A project with an approved budget of ten million dollars ($10,000,000) or more may be awarded pursuant to this clause.

(ii) A design-build competition based upon performance and other criteria set forth by the Department of General Services or the Department of Corrections and Rehabilitation in the design-build solicitation package. Criteria used in this evaluation

of proposals may include, but need not be limited to, items such as proposed design approach, life-cycle costs, project features, and functions. However, any criteria and methods used to evaluate proposals shall be limited to those contained in the design-build solicitation package. Award shall be made to the design-build entity whose proposal is judged as providing the best value, for the lowest price, meeting the interests of the Department of General Services or the Department of Corrections and Rehabilitation and meeting the objectives of the project. A project with an approved budget of ten million dollars ($10,000,000) or more may be awarded pursuant to this clause.

(iii) A design-build competition based upon program requirements and a detailed scope of work, including any performance criteria and concept drawings set forth by the Department of General Services or the Department of Corrections and Rehabilitation in the design-build solicitation package. Award shall be made on the basis of the lowest responsible bid. A project with an approved budget of two hundred fifty thousand dollars ($250,000) or more may be awarded pursuant to this clause.

(4) For purposes of this subdivision, the following definitions shall apply:

(A) "Best interest of the state" means a design-build process that is projected by the Director of General Services or the Secretary of the Department of Corrections and Rehabilitation to reduce the project delivery schedule and total cost of a project while maintaining a high level of quality workmanship and materials, when compared to the traditional design-bid-build process.

(B) "Best value" means a value determined by objective criteria that may include, but are not limited to, price, features, functions, life-cycle costs, experience, and other criteria deemed appropriate by the Department of General Services or the Department of Corrections and Rehabilitation.

(d) The Legislature recognizes that the design-build entity is charged with performing both design and construction. Because a design-build contract may be awarded prior to the completion of the design, it is often impracticable for the design-build entity to list all subcontractors at the time of the award. As a result, the subcontractor listing requirements contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the

Public Contract Code can create a conflict with the implementation of the design-build process by requiring all subcontractors to be listed at a time when a sufficient set of plans shall not be available. It is the intent of the Legislature to establish a clear process for the selection and award of subcontracts entered into pursuant to this section in a manner that retains protection for subcontractors while enabling design-build projects to be administered in an efficient fashion. Therefore, all of the following requirements shall apply to subcontractors, licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, that are employed on design-build projects undertaken pursuant to this section:

(1) The Department of General Services and the Department of Corrections and Rehabilitation, in each design-build solicitation package, may identify types of subcontractors, by subcontractor license classification, that will be listed by the design-build entity at the time of the bid. In selecting the subcontractors that will be listed by the design-build entity, the Department of General Services and the Department of Corrections and Rehabilitation shall limit the identification to only those license classifications deemed essential for proper completion of the project. In no event, however, may the Department of General Services or the Department of Corrections and Rehabilitation specify more than five licensed subcontractor classifications. In addition, at its discretion, the design-build entity may list an additional two subcontractors, identified by subcontractor license classification, that will perform design or construction work, or both, on the project. In no event shall the design-build entity list at the time of bid a total number of subcontractors that will perform design or construction work, or both, in a total of more than seven subcontractor license classifications on a project. All subcontractors that are listed at the time of bid shall be afforded all of the protection contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code. All subcontracts that were not listed by the design-build entity at the time of bid shall be awarded in accordance with paragraph (2).

(2) All subcontracts that were not to be performed by the design-build entity in accordance with paragraph (1) shall be competitively bid and awarded by the design-build entity, in accordance with the design-build process set forth by the

Department of General Services or the Department of Corrections and Rehabilitation in the design-build solicitation package. The design-build entity shall do all of the following:

(A) Provide public notice of the availability of work to be subcontracted in accordance with Section 10140 of the Public Contract Code.

(B) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with Section 10141 of the Public Contract Code.

(C) As authorized by the Department of General Services or the Department of Corrections and Rehabilitation, establish reasonable prequalification criteria and standards, limited in scope to those detailed in paragraph (2) of subdivision (c).

(D) Provide that the subcontracted work shall be awarded to the lowest responsible bidder.

(e) This section shall not be construed and is not intended to extend or limit the authority specified in Section 19130.

(f) Any design-build entity that is selected to design and construct a project pursuant to this section shall possess or obtain sufficient bonding consistent with applicable provisions of the Public Contract Code. Nothing in this section shall prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(g) Any payment or performance bond written for the purposes of this section shall use a bond form developed by the Department of General Services or the Department of Corrections and Rehabilitation. In developing the bond form, the Department of General Services or the Department of ~~Correction~~ *Corrections* and Rehabilitation shall consult with the surety industry to achieve a bond form that is consistent with surety industry standards, while protecting the interests of the state.

(h) The Department of General Services or the Department of Corrections and Rehabilitation, as appropriate, shall each submit to the Joint Legislative Budget Committee, before January 1, 2014, a report containing a description of each public works project procured by that department through the design-build process described in this section that is completed after January 1, 2009, and before December 1, 2013. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.
(2) The gross square footage of the project.
(3) The design-build entity that was awarded the project.
(4) The estimated and actual project costs.
(5) An assessment of the prequalification process and criteria.
(6) An assessment of the effect of any retention on the project made under the law.
(7) A description of the method used to award the contract. If the best value method was used, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.
(i) The authority provided under this section shall be in addition to the authority provided to the Department of General Services pursuant to Section 4 of Chapter 252 of the Statutes of 1998, as amended by Section 3 of Chapter 154 of the Statutes of 2007. The authority under this section and Section 70391.7 shall apply to a total of not more than five state office facilities, prison facilities, or court facilities, which shall be determined pursuant to this subdivision.
(1) In order to enter into a contract utilizing the procurement method authorized under this section, the Director of General Services or the Secretary of the Department of Corrections and Rehabilitation shall submit a request to the Department of Finance.
(2) The Department of Finance shall make a determination whether to approve or deny a request made pursuant to paragraph (1) if the design-build project requested will not exceed the five facilities maximum set forth in this section and Section 70391.7.
(3) After receiving notification that the Department of Finance has approved the request and that the Legislature has appropriated funds for a specific project, the director or secretary may enter into a design-build contract under this section.
(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available under the law.
SEC. 123. Section 15439 of the Government Code is amended to read:
15439. (a) The California Health Facilities Authority Fund is continued in existence in the State Treasury as the California Health Facilities Financing Authority Fund. All ~~money~~ *moneys* in the fund ~~is~~ *are* hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge

any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, or any particular secured or unsecured loan made pursuant to subdivision (i), (j), or (s) of Section 15438, or for a grant awarded pursuant to subdivision (b) of Section 15438.7, and, for that purpose or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the fund.

(b) Subject to the priorities that may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to the cost of loans provided by the authority pursuant to ~~subdivisions~~ *subdivision* (i), (j), or (s) of Section 15438 and to the cost of grants provided by the authority pursuant to Section 15438.7, and subject further to any reasonable costs which may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as the bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the same.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in the agreements.

(d) The authority may, from time to time, direct the State Treasurer to invest moneys in the fund that are not required for its current needs, including proceeds from the sale of any bonds, in the eligible securities specified in Section 16430 as the agency shall designate. The authority may direct the State Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4. All interest or other increment resulting

from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4, excepting the Surplus Money Investment Fund.

(e) All moneys accruing to the authority from whatever source shall be deposited in the fund.

SEC. 124. Section 18929.96 of the Government Code is amended and renumbered to read:

~~18929.96.~~

19829.96. (a) Notwithstanding Section 13340, for the 2011–12 fiscal year, if the ~~2011–12~~ Budget Act *of 2011* is not enacted by July 1, 2011, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the ~~2011–12~~ Budget Act *of 2011* is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2011, of the 2011–12 fiscal year and the enactment of the ~~2011–12~~ Budget Act *of 2011*.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 (each effective July 1, 2010, to July 1, 2013, inclusive), are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the ~~2011–12~~ Budget Act *of 2011*, these expenditures shall be subsumed by the expenditure

authority approved in the ~~2011–12~~ Budget Act *of 2011* for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 memoranda of understanding (each effective July 1, 2010, to July 1, 2013, inclusive). Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for each unit expires on July 1, 2013.

SEC. 125. Section 19829.7 of the Government Code, as added by Section 6 of Chapter 162 of the Statutes of 2010, is amended to read:

19829.7. (a) Notwithstanding Section 13340, for the 2010–11 fiscal year, if the ~~2010–11~~ Budget Act *of 2010* is not enacted by July 1, 2010, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the ~~2010–11~~ Budget Act *of 2010* is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2010, of the 2010–11 fiscal year and the enactment of the ~~2010–11~~ Budget Act *of 2010*.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12

(effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon enactment of the ~~2010–11~~ Budget Act *of 2010*, these expenditures shall be subsumed by the expenditure authority approved in the ~~2010–11~~ Budget Act *of 2010* for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8~~,~~ (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) memoranda of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding expires. For purposes of this section, the memorandum of understanding for State Bargaining Unit 5 expires on July 3, 2013, the memorandum of understanding for State Bargaining Unit 8 expires on July 1, 2013, the memorandum of understanding for State Bargaining Unit 12 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 16 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 18 expires on July 1, 2012, and the memorandum of understanding for State Bargaining Unit 19 expires on July 1, 2012.

SEC. 126. Section 19829.7 of the Government Code, as added by Section 6 of Chapter 163 of the Statutes of 2010, is amended to read:

19829.7. (a) Notwithstanding Section 13340, for the 2010–11 fiscal year, if the ~~2010–11~~ Budget Act *of 2010* is not enacted by

July 1, 2010, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the ~~2010–11~~ Budget Act *of 2010* is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2010, of the 2010–11 fiscal year and the enactment of the ~~2010–11~~ Budget Act *of 2010*.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon enactment of the ~~2010–11~~ Budget Act *of 2010*, these expenditures shall be subsumed by the expenditure authority approved in the ~~2010–11~~ Budget Act *of 2010* for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8~~,~~ (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) memoranda of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding expires. For purposes of this section, the memorandum of understanding for State Bargaining Unit 5 expires on July 3, 2013, the memorandum of understanding for State Bargaining Unit 8 expires on July 1, 2013, the memorandum of understanding for State Bargaining Unit 12 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 16 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 18 expires on July 1, 2012, and the memorandum of understanding for State Bargaining Unit 19 expires on July 1, 2012.

SEC. 127. Section 20037.14 of the Government Code, as added by Section 11 of Chapter 162 of the Statutes of 2010, is amended to read:

20037.14. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after October 31, 2010, and is represented by State Bargaining ~~Units~~ *Unit* 5 or 8, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 5 or 8 or in a class related to State Bargaining Unit 5 or 8 as an employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(c) This section does not apply to:

(1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

SEC. 128. Section 21369.2 of the Government Code, as added by Section 21 of Chapter 162 of the Statutes of 2010, is amended to read:

21369.2. (a) The combined prior and current service pension for a state safety member, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety *service*, that is credited to him or her as a state safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

Age at Retirement	Fraction
50	0.713
50¼	0.725
50½	0.737
50¾	0.749
51	0.761
51¼	0.775
51½	0.788

51¾	0.801
52	0.814
52¼	0.828
52½	0.843
52¾	0.857
53	0.871
53¼	0.886
53½	0.902
53¾	0.917
54	0.933
54¼	0.950
54½	0.966
54¾	0.983
55	1.0000
55¼	1.0125
55½	1.0250
55¾	1.0375
56	1.0500
56¼	1.0625
56½	1.0750
56¾	1.0875
57	1.1000
57¼	1.1125
57½	1.1250
57¾	1.1375
58	1.1500
58¼	1.1625
58½	1.1750
58¾	1.1875
59	1.2000
59¼	1.2125
59½	1.2250
59¾	1.2375
60 and over	1.2500

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension

payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(e) This section shall apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of this section, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(f) This section does not apply to:

(1) Former state employees previously employed before the first day of the pay period following the effective date of this subdivision, who return to state employment on or after the first day of the pay period following the effective date of this subdivision.

(2) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or

19 on or after the first day of the pay period following the effective date of this subdivision.

(4) State employees on an approved leave of absence employed before the first day of the pay period following the effective date of this subdivision, who return to active employment on or after the first day of the pay period following the effective date of this subdivision.

SEC. 129. Section 21369.2 of the Government Code, as added by Section 21 of Chapter 163 of the Statutes of 2010, is amended to read:

21369.2. (a) The combined prior and current service pension for a state safety member, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety *service*, that is credited to him or her as a state safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

Age at Retirement	Fraction
50	0.713
50¼	0.725
50½	0.737
50¾	0.749
51	0.761
51¼	0.775
51½	0.788
51¾	0.801
52	0.814
52¼	0.828
52½	0.843
52¾	0.857
53	0.871

53¼	0.886
53½	0.902
53¾	0.917
54	0.933
54¼	0.950
54½	0.966
54¾	0.983
55	1.0000
55¼	1.0125
55½	1.0250
55¾	1.0375
56	1.0500
56¼	1.0625
56½	1.0750
56¾	1.0875
57	1.1000
57¼	1.1125
57½	1.1250
57¾	1.1375
58	1.1500
58¼	1.1625
58½	1.1750
58¾	1.1875
59	1.2000
59¼	1.2125
59½	1.2250
59¾	1.2375
60 and over	1.2500

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state member has service under this section with both state and local agency employers, the higher maximum shall apply

and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(e) This section shall apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of this section, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(f) This section does not apply to:

(1) Former state employees previously employed before the first day of the pay period following the effective date of this subdivision, who return to state employment on or after the first day of the pay period following the effective date of this subdivision.

(2) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or 19 on or after the first day of the pay period following the effective date of this subdivision.

(4) State employees on an approved leave of absence employed before the first day of the pay period following the effective date of this subdivision, who return to active employment on or after the first day of the pay period following the effective date of this subdivision.

SEC. 130. Section 22874.1 of the Government Code is amended to read:

22874.1. (a) Notwithstanding Sections 22870, 22871, 22873, and 22874, a state employee, defined by subdivision (c) of Section 3513, who is employed by the state for the first time, and who is represented by State Bargaining Unit 12, who becomes a state member of the system on or after January 1, 2011, may not receive any portion of the employer contribution payable for annuitants unless the person is credited with 15 years of state service at the time of retirement.

(b) The percentage of the employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the completed years of credited state service at retirement as shown in the following table:

Years of Service Contribution	Credited Years Percentage of Employer Contribution
15	50
16	55
17	60
18	65
19	70
20	75
21	80
22	85
23	90
24	95
25 or more	100

(c) This section shall apply only to state employees who retire for service. For purposes of this section, “state service” means service rendered as an employee of the state or an appointed or elected officer of the state for compensation. Notwithstanding Section 22826, for purposes of this section, credited state service includes service to the state for which the employee, pursuant to Section 20281.5, did not receive credit.

(d) This section does not apply to:

(1) Former state employees previously employed before January 1, 2011, who return to state employment on or after January 1, 2011.

(2) State employees hired prior to January 1, 2011, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2011, who become subject to representation by State Bargaining Unit 12 on or after January 1, 2011.

(4) State employees on an approved leave of absence employed before January 1, 2011, who return to active employment on or after January 1, 2011.

(5) State employees hired after January 1, 2011, who are first represented by a state bargaining unit other than State Bargaining Unit 12.

(6) Employees of the California State University, the judicial branch, or the Legislature.

(e) Notwithstanding Section 22875, this section shall also apply to a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service who met the requirements of this section when employed by the state for the first time.

SEC. 131. Section 56853.6 of the Government Code is amended to read:

56853.6. (a) In the case of an accelerated reorganization, notwithstanding any provision of this division or the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code), unless the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the El Dorado County Local Agency Formation Commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the accelerated reorganization. If the commission approves or conditionally approves the accelerated reorganization, the commission shall order the accelerated reorganization without an election.

(b) If the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed accelerated reorganization.

(c) The commission may order any material change to the terms and conditions of the accelerated reorganization set forth in the proposal. The commission shall direct the executive officer to give the Tahoe Paradise Resort Improvement District mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the Tahoe Paradise Resort Improvement District, take any further action on the accelerated reorganization for 30 days following that mailing.

(d) A proposal for an accelerated reorganization shall include proposed terms and conditions that shall include, but are not limited to, all of the following:

(1) The proposed recreation and park district is declared to be, and shall be deemed, a recreation and park district as if the district had been formed pursuant to the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code). The exterior boundary and sphere of influence of the proposed recreation and park district shall be the exterior boundary and sphere of influence of the Tahoe Paradise Resort Improvement District.

(2) The proposed recreation and park district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Tahoe Paradise Resort Improvement District.

(3) The status, position, and rights of any officer or employee of the Tahoe Paradise Resort Improvement District shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed recreation and park district.

(4) The proposed recreation and park district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the Tahoe Paradise Resort Improvement District.

(5) The unexpended balance as of the effective date of the accelerated reorganization of any funds available for use by the Tahoe Paradise Resort Improvement District shall be available for use by the proposed recreation and park district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the Tahoe Paradise Resort Improvement District shall be required by reason of the succession pursuant to the accelerated reorganization, nor shall any payment for the proposed recreation and park district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the Tahoe Paradise Resort Improvement District in effect immediately preceding the effective date of the accelerated reorganization~~,~~ shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed recreation and park district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the accelerated reorganization, or that may be enacted or adopted with reference to the Tahoe Paradise Resort Improvement District shall mean the proposed recreation and park district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the Tahoe Paradise Resort Improvement District shall remain in effect unless amended or repealed by the proposed recreation and park district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 ~~of~~ *for* the Tahoe Paradise Resort Improvement District shall be the appropriations limit of the proposed recreation and park district.

(10) Any action by or against the Tahoe Paradise Resort Improvement District shall not abate, but shall continue in the name of the proposed recreation and park district, and the proposed recreation and park district shall be substituted for the Tahoe Paradise Resort Improvement District by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the Tahoe Paradise Resort Improvement District is a party shall be void or voidable by reason of the enactment of the accelerated reorganization, but shall continue in effect, with the proposed recreation and park district

assuming all of the rights, obligations, liabilities, and duties of the Tahoe Paradise Resort Improvement District.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the Tahoe Paradise Resort Improvement District shall be the obligations of the proposed recreation and park district. Any continuing obligations or responsibilities of the Tahoe Paradise Resort Improvement District for managing and maintaining bond issuances shall be transferred to the proposed recreation and park district without impairment to any security contained in the bond instrument.

(e) As used in this section, "accelerated reorganization" means a reorganization that consists solely of the dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district.

(f) This section shall remain in effect only until January 2, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 132. Section 63049.67 of the Government Code is amended to read:

63049.67. (a) Notwithstanding any other provision of this division, a financing of emergency apportionments upon the request of a school district pursuant to Article 2.7 (commencing with Section 41329.50) of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code, is deemed to be in the public interest and eligible for financing by the bank. Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and Article 5 (commencing with Section 63043) do not apply to the financing provided by the bank in connection with an emergency apportionment.

(b) The bank may issue bonds pursuant to Chapter 5 (commencing with Section 63070) and provide the proceeds to a school district pursuant to a lease agreement. The proceeds may be used as an emergency apportionment, to reimburse the interim emergency apportionment from the General Fund authorized pursuant to subdivision (b) of Section 41329.52 of the Education Code, or to refund bonds previously issued under this section. Bond proceeds may also be used to fund necessary reserves, capitalized interest, credit enhancement costs, and costs of issuance.

(c) Bonds issued under this article are not deemed to constitute a debt or liability of the state or of any political subdivision of the

state, other than a limited obligation of the bank, or a pledge of the faith and credit of the state or of any political subdivision. All bonds issued under this article shall contain on the face of the bonds a statement to the same effect.

(d) Any fund or account established in connection with the bonds shall be established outside of the centralized treasury system. Notwithstanding any other law, the bank shall select the financing team and the trustee for the bonds, and the trustee shall be a corporation or banking association authorized to exercise corporate trust powers.

(e) Pursuant to Section 41329.55 of the Education Code, a school district other than the Compton Community College District shall instruct the Controller to repay the lease from moneys in the State School Fund designated for apportionment to the school district. Pursuant to Section 41329.55, if the school district is the Compton Community College District, the Controller shall be instructed to repay the lease from moneys in Section B of the State School Fund. Any amounts necessary to make this repayment shall be drawn from the total statewide funding available for community college apportionment consisting of funds in Section B of the State School Fund. Thereafter the Controller shall transfer to Section B of the State School Fund, either in a single or multiple transfers, an amount equal to the total repayment, which amount shall be transferred from the amount designated for apportionment to the Compton Community College District from the State School Fund. If these transfers from the district prove inadequate to repay any repayments for any reason, the Compton Community College District is required to use any revenue sources available to it for transfer and repayment purposes.

(f) Notwithstanding any other law, as long as any bonds issued pursuant to this section are outstanding, the following requirements apply:

(1) The school district for which the bonds were issued is not eligible to be a debtor in a case under Chapter 9 of the United States Bankruptcy Code, as it may be amended from time to time, and no governmental officer or organization is or may be empowered to authorize the school district to be a debtor under that chapter.

(2) It is the intent of the Legislature that the Legislature should not in the future abolish the Compton Community College District

or take any action that would prevent the Compton Community College from entering into or performing binding agreements or invalidate any prior binding agreements of the Compton Community College District, where invalidation may have a material adverse effect on the bonds issued pursuant to this section.

(3) The Compton Community College District shall not be reorganized or merged with another community college district unless all of the following apply:

(A) The successor district becomes by operation of law the owner of all property previously owned by the Compton Community College District.

(B) Any agreement entered into by the Compton Community College District in connection with bonds issued pursuant to this section are assumed by the successor district.

(C) The apportionment authorized by subdivision (e) remains in effect.

(D) Receipt by the bank of an opinion of bond counsel that the bonds issued for the Compton Community College District will remain tax exempt following the reorganization or merger.

(g) Nothing in this section limits the authority of the Legislature to abolish the Compton Community College District when bonds issued for that district are no longer outstanding. Further, the Legislature may provide for the redemption or defeasance of the bonds at any time so that no bonds are outstanding. If the Legislature provides for the redemption or defeasance of the bonds issued for the Compton Community College District in order to abolish that district, it is the intent of the Legislature that the funds required for the redemption or defeasance should be appropriated from Section B of the State School Fund.

(h) The bank may enter into contracts or agreements with banks, insurers, or other financial institutions or parties that it determines are necessary or desirable to improve the security and marketability of, or to manage interest rates or other risks associated with, the bonds issued pursuant to this section. The bank may pledge apportionments made by the Controller directly to the bond trustee pursuant to Section 41329.55 of the Education Code as security for repayment of any obligation owed to a bank, insurer, or other financial institution pursuant to this subdivision.

SEC. 133. Section 66484 of the Government Code is amended to read:

66484. (a) A local ordinance may require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares. The ordinance may require payment of fees pursuant to this section if all of the following requirements are satisfied:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation or flood control provisions thereof that identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element that identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system, if the circulation element, transportation or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65091 and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements that are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land that abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The apportioned fees shall be applicable to all property

within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing agency shall make provision for payment of the share of improvement costs apportioned to those lands from other sources.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. The fees shall not be expended to reimburse the cost of existing bridge facility construction.

(6) The ordinance provides that if, within the time when protests may be filed under the provisions of the ordinance, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under ~~the provisions of~~ this section.

(b) Any protest may be withdrawn by the owner protesting, in writing, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

(c) If any majority protest is directed against only a portion of the improvement, then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body may commence new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section prohibits a legislative body, within that one-year period, from commencing and carrying on new

proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(d) Nothing in this section precludes the processing and recordation of maps in accordance with other provisions of this division if the proceedings are abandoned.

(e) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge and major thoroughfare projects in the benefit area. ~~Money~~ *Moneys* in the fund shall be expended solely for the construction or reimbursement for construction of the improvement or improvements serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the local agency for the cost of constructing the improvement or improvements.

(f) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(g) A local agency imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund for any advances from planned bridge facility or major thoroughfares funds established to finance the construction of those improvements.

(h) A local agency imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares. However, the sole security for repayment of that indebtedness shall be moneys in planned bridge facility or major thoroughfares funds.

(i) (1) The term "construction," as used in this section, includes design, acquisition of rights-of-way, administration of construction contracts, and actual construction.

(2) The term "construction," as used in this section, with respect to the unincorporated areas of San Diego County and Los Angeles County only, includes design, acquisition of rights-of-way, and

actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term "construction," with respect to the unincorporated areas of San Diego County and Los Angeles County only, also includes reasonable administrative expenses, not exceeding three hundred thousand dollars ($300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for ~~all~~ *All* Urban Consumers, San Diego, California (1967 = 100), and Los Angeles-Long Beach-Anaheim, California (1967 = 100), respectively, as published by the United States Department of Commerce for the purpose of constructing bridges and major thoroughfares. "Administrative expenses" means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(3) The term "construction," as used in this section, with respect to Los Angeles County only, shall have the same meaning as in paragraph (2) in either of the following circumstances:

(A) The area of benefit includes, and all of the bridge and major thoroughfare project improvements lie within, both a city or a portion of a city and adjacent portions of unincorporated area.

(B) All of the area of benefit and all of the bridge and major thoroughfare project improvements lie completely within the boundaries of a city.

(j) Nothing in this section precludes a county or city from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

SEC. 134. Section 72011 of the Government Code, as added by Section 24 of Chapter 720 of the Statutes of 2010, is amended to read:

72011. (a) For each fee received for providing telephone appearance services, each vendor or court that provides for appearances by telephone shall transmit twenty dollars ($20) to the State Treasury for deposit in the Trial Court Trust Fund established pursuant to Section 68085. If the vendor or court receives a portion of the fee as authorized under paragraph (2) of subdivision (b) of Section 367.6 of the Code of Civil Procedure,

the vendor or court shall transmit only the proportionate share of the amount required under this section. This section shall apply regardless of whether the Judicial Council has established the statewide uniform fee pursuant to Section 367.6 of the Code of Civil Procedure, or entered into one or more master agreements pursuant to Section 72010 *of this code*. This section shall not apply when a vendor or court does not receive a fee.

(b) The amounts described in subdivision (a) shall be transmitted within 15 days after the end of each calendar quarter for fees collected in that quarter.

(c) Vendors shall also transmit an amount equal to the total amount of revenue received by all courts from all vendors for providing telephonic appearances for the 2009–10 fiscal year.

(d) The ~~amounts~~ *amount* set forth in subdivision (c) shall be apportioned by the Judicial Council among the vendors with which the Judicial Council has a master agreement pursuant to Section 72010. Within 15 days of receiving notice from the Judicial Council of its apportioned amount, each vendor shall transmit that amount to the State Treasury for deposit in the Trial Court Trust Fund.

(e) The Judicial Council shall allocate the amount collected pursuant to subdivisions (c) and (d) for the purpose of preventing significant disruption in services in courts that previously received revenues from vendors for providing telephone appearance services. The Judicial Council shall determine the method and amount of the allocation to each eligible court.

(f) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 135. Section 76000.10 of the Government Code is amended to read:

76000.10. (a) This section shall be known, and may be cited, as the Emergency Medical Air Transportation Act.

(b) For purposes of this section:

(1) "Department" means the State Department of Health Care Services.

(2) "Director" means the Director of ~~the State Department of~~ Health Care Services.

(3) "Provider" means a provider of emergency medical air transportation services.

(4) "Rotary wing" means a type of aircraft, commonly referred to as a helicopter, that generates lift through the use of wings, known as rotor blades, that revolve around a mast.

(5) "Fixed wing" means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

(6) "Air mileage rate" means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

(c) (1) For the purpose of implementing this section, a penalty of four dollars ($4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision shall be in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, Section 70372 of the Government Code, and to calculate the other additional penalties levied pursuant to this chapter.

(d) The county board of supervisors shall establish in the county treasury an emergency medical air transportation act fund into which shall be deposited the moneys collected pursuant to this section. Moneys in each county's fund, including interest and dividends earned thereon, shall be held by the county treasurer separate from funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

(e) (1) Within 30 days following the last day of each calendar quarter of the year, the county treasurer shall transfer moneys in the county's emergency medical air transportation act fund to the Controller for deposit into the Emergency Medical Air Transportation Act Fund, which is hereby established in the State Treasury. Notwithstanding Section 16305.7, the Emergency Medical Air Transportation Act Fund shall include interest and

dividends earned on money in the fund. Prior to the transfer of funds from the county's emergency medical air transportation act fund to the state, the county treasurer may withhold a sufficient amount from the fund to reimburse the county and the courts for their actual, reasonable, and necessary costs associated with administering this section. To the extent moneys are withheld by the county treasurer, an accounting report detailing these costs shall be sent to the department at least once per calendar year.

(2) The Emergency Medical Air Transportation Act Fund shall be administered by the State Department of Health Care Services. Moneys in the Emergency Medical Air Transportation Act Fund shall be made available, upon appropriation by the Legislature, to the department to be used as follows:

(A) For payment of the administrative costs of the department in administering this section.

(B) Twenty percent of the fund remaining after payment of administrative costs pursuant to subparagraph (A) shall be used to offset the state portion of the Medi-Cal reimbursement rate for emergency medical air transportation services.

(C) Eighty percent of the fund remaining after payment of administrative costs pursuant to subparagraph (A) shall be used, to augment emergency medical air transportation reimbursement payments made through the Medi-Cal program, as set forth in paragraphs (3) and (4).

(3) (A) The department shall seek to obtain federal matching funds by using the moneys in the Emergency Medical Air Transportation Act Fund for the purpose of augmenting Medi-Cal reimbursement paid to emergency medical air transportation providers.

(B) The director shall do all of the following:

(i) By March 1, 2011, meet with medical air transportation providers to determine the most appropriate methodology to distribute the funds for medical air services.

(ii) Implement the methodology determined most appropriate in a timely manner.

(iii) Develop the methodology in collaboration with the medical air providers.

(iv) Submit any state plan amendments or waiver requests that may be necessary to implement this section.

(v) Submit any state plan amendment or waiver request that may be necessary to implement this section.

(vi) Seek federal approvals or waivers as may be necessary to implement this section and to obtain federal financial participation to the maximum extent possible for the payments under this section. If federal approvals are not received, moneys in the fund may be distributed pursuant to this section until federal approvals are received.

(C) The director may give great weight to the needs of the emergency medical air services providers, as discussed through the development of the methodology.

(4) (A) Upon appropriation by the Legislature, the department shall use moneys in the Emergency Medical Air Transportation Act Fund and any federal matching funds to increase the Medi-Cal reimbursement for emergency medical air transportation services in an amount not to exceed normal and customary charges charged by the providers.

(B) Notwithstanding any other provision of law, and pursuant to this section, the department shall increase the Medi-Cal reimbursement for emergency medical air transportation services provided that both of the following conditions are met:

(i) Moneys in the Emergency Medical Air Transportation Act Fund will cover the cost of increased payments pursuant to subparagraph (A).

(ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency medical air transportation services increase.

~~(e)~~

(f) The assessment of penalties pursuant to this section shall terminate commencing January 1, 2016. Penalties assessed prior to January 1, 2016, shall continue to be collected, administered, and distributed pursuant to this section until exhausted or until June 30, 2017, whichever occurs first. On June 30, 2017, moneys remaining unexpended and unencumbered in the Emergency Medical Air Transportation Act Fund shall be transferred to the General Fund, to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement for emergency medical air transportation and related costs, generally.

~~(f)~~

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division *3 of Title* 2~~ of the Government Code~~, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of~~ all county~~ *all-county* letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

~~(g)~~

(h) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 136. Section 100521 of the Government Code is amended to read:

100521. (a) The board shall ensure that the establishment, operation, and administrative functions of the Exchange do not exceed the combination of federal funds, private donations, and other non-General Fund moneys available for this purpose. No state General Fund~~ money~~ *moneys* shall be used for any purpose under this title without a subsequent appropriation. No liability incurred by the Exchange or any of its officers or employees may be satisfied using moneys from the General Fund.

(b) The implementation of the provisions of this title, other than this section, Section 100500, and paragraphs (4) and (5) of subdivision (a) of Section 100504, shall be contingent on a determination by the board that sufficient financial resources exist or will exist in the fund. The determination shall be based on at least the following:

(1) Financial projections identifying that sufficient resources exist or will exist in the fund to implement the Exchange.

(2) A comparison of the projected resources available to support the Exchange and the projected costs of activities required by this title.

(3) The financial projections demonstrate the sufficiency of resources for at least the first two years of operation under this title.

(c) The board shall provide notice to the Joint Legislative Budget Committee and the Director of Finance that sufficient financial resources exist in the fund to implement this title.

(d) If the board determines that the level of resources in the fund cannot support the actions and responsibilities described in

subdivision (a), it shall provide the Department of Finance and the Joint Legislative Budget Committee a detailed report on the changes to the functions, contracts, or staffing necessary to address the fiscal deficiency along with any contingency plan should it be impossible to operate the Exchange without the use of General Fund moneys.

(e) The board shall assess the impact of the Exchange's operations and policies on other publicly funded health programs administered by the state and the impact of publicly funded health programs administered by the state on the Exchange's operations and policies. This assessment shall include, at a minimum, an analysis of potential cost shifts or cost increases in other programs that may be due to Exchange policies or operations. The assessment shall be completed on at least an annual basis and submitted to the Secretary of *California* Health and Human Services and the Director of Finance.

SEC. 137. The heading of Article 10 (commencing with former Section 58300) of Chapter 1 of Division 1 of Title 6 of the Government Code is repealed.

~~Article 10. Dissolution~~

SEC. 138. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the Business, Transportation and Housing Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in the Bay of San Francisco, San Pablo, Suisun, or Monterey, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators of

vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, ~~no~~ *a* public member appointed ~~may~~ *shall not* have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Members appointed pursuant to subdivision (a) shall be appointed with staggered terms as follows:

(1) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, except that the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (1) of subdivision (a) shall be appointed to a term expiring on December 31, 2014, and the first member appointed after December 31, 2012, to an initial term

pursuant to paragraph (2) of subdivision (a) shall be appointed to a term expiring on December 31, 2014.

(2) Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively.

(3) A person ~~may~~ *shall* not be appointed for more than two terms.

(4) Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

(d) The Secretary of ~~the~~ Business, Transportation and Housing ~~Agency~~ shall serve as an ex officio member of the board who, without vote, may exercise all other privileges of a member of the board.

SEC. 139. Section 1357.51 of the Health and Safety Code is amended to read:

1357.51. (a) No plan contract that covers three or more enrollees shall exclude coverage for any individual on the basis of a preexisting condition provision for a period greater than six months following the individual's effective date of coverage. Preexisting condition provisions contained in plan contracts may relate only to conditions for which medical advice, diagnosis, care, or treatment, including use of prescription drugs, was recommended or received from a licensed health practitioner during the six months immediately preceding the effective date of coverage.

(b) No plan contract that covers one or two individuals shall exclude coverage on the basis of a preexisting condition provision for a period greater than 12 months following the individual's effective date of coverage, nor shall the plan limit or exclude coverage for a specific enrollee by type of illness, treatment, medical condition, or accident, except for satisfaction of a preexisting condition clause pursuant to this article. Preexisting condition provisions contained in plan contracts may relate only to conditions for which medical advice, diagnosis, care, or treatment, including use of prescription drugs, was recommended

or received from a licensed health practitioner during the 12 months immediately preceding the effective date of coverage.

(c) (1) Notwithstanding subdivision (a), a plan contract for group coverage shall not impose any preexisting condition provision upon any child under 19 years of age.

(2) Notwithstanding subdivision (b), a plan contract for individual coverage that is not a grandfathered health *plan* within the meaning of Section 1251 of the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148) shall not impose any preexisting condition provision upon any child under 19 years of age.

(d) A plan that does not utilize a preexisting condition provision may impose a waiting or affiliation period not to exceed 60 days, before the coverage issued subject to this article shall become effective. During the waiting or affiliation period, the plan is not required to provide health care services and no premium shall be charged to the subscriber or enrollee.

(e) A plan that does not utilize a preexisting condition provision in plan contracts that cover one or two individuals may impose a contract provision excluding coverage for waivered conditions. No plan may exclude coverage on the basis of a waivered condition for a period greater than 12 months following the individual's effective date of coverage. A waivered condition provision contained in plan contracts may relate only to conditions for which medical advice, diagnosis, care, or treatment, including use of prescription drugs, was recommended or received from a licensed health practitioner during the 12 months immediately preceding the effective date of coverage.

(f) In determining whether a preexisting condition provision, a waivered condition provision, or a waiting or affiliation period applies to any enrollee, a plan shall credit the time the enrollee was covered under creditable coverage, provided that the enrollee becomes eligible for coverage under the succeeding plan contract within 62 days of termination of prior coverage, exclusive of any waiting or affiliation period, and applies for coverage under the succeeding plan within the applicable enrollment period. A plan shall also credit any time that an eligible employee must wait before enrolling in the plan, including any postenrollment or employer-imposed waiting or affiliation period.

However, if a person's employment has ended, the availability of health coverage offered through employment or sponsored by an employer has terminated, or an employer's contribution toward health coverage has terminated, a plan shall credit the time the person was covered under creditable coverage if the person becomes eligible for health coverage offered through employment or sponsored by an employer within 180 days, exclusive of any waiting or affiliation period, and applies for coverage under the succeeding plan contract within the applicable enrollment period.

(g) No plan shall exclude late enrollees from coverage for more than 12 months from the date of the late enrollee's application for coverage. No plan shall require any premium or other periodic charge to be paid by or on behalf of a late enrollee during the period of exclusion from coverage permitted by this subdivision.

(h) A health care service plan issuing group coverage may not impose a preexisting condition exclusion upon a condition relating to benefits for pregnancy or maternity care.

(i) An individual's period of creditable coverage shall be certified pursuant to subsection (e) of Section 2701 of Title XXVII of the federal Public Health Services Act (42 U.S.C. Sec. 300gg(e)).

SEC. 140. Section 1365 of the Health and Safety Code is amended to read:

1365. (a) An enrollment or a subscription shall not be canceled or not renewed except for the following reasons:

(1) (A) For nonpayment of the required premiums by the individual, employer, or contractholder if the individual, employer, or contractholder has been duly notified and billed for the charge and at least a 30-day grace period has elapsed since the date of notification or, if longer, the period of time required for notice and any other requirements pursuant to Section 2703, 2712, or 2742 of the federal Public Health Service Act (42 U.S.C. Secs. 300gg-2, 300gg-12, and 300gg-42) and any subsequent rules or regulations has elapsed.

(B) Pursuant to subparagraph (A), a health care service plan shall continue to provide coverage as required by the individual's, employer's, or contractholder's health care service plan contract during the period described in subparagraph (A).

(2) The plan demonstrates fraud or an intentional misrepresentation of material fact under the terms of the health

care service plan contract by the individual contractholder or employer.

(3) In the case of an individual health care service plan contract, the individual subscriber no longer resides, lives, or works in the plan's service area, but only if the coverage is terminated uniformly without regard to any health status-related factor of covered individuals.

(4) In the case of a group health care service plan contract, violation of a material contract provision relating to employer contribution or group participation rates by the~~,~~ contractholder~~,~~ or employer.

(5) If the plan ceases to provide or arrange for the provision of health ~~benefit~~ *benefits* for new health care service plan contracts in the individual or group market, or all markets, in this state, provided, however, that the following conditions are satisfied:

(A) Notice of the decision to cease new or existing health benefit plans in the state is provided to the director ~~and to~~, the individual or group contractholder or employer, and the enrollees covered under those contracts, at least 180 days prior to discontinuation of those contracts.

(B) Health benefit plans shall not be canceled for 180 days after the date of the notice required under subparagraph (A) and, for that business of a plan that remains in force, any plan that ceases to offer for sale new health benefit plans shall continue to be governed by this section with respect to business conducted under this section.

(C) Except as authorized under subdivision (b) of Section 1357.09 and Section 1357.10, a plan that ceases to write new health benefit plans in the individual or group market, or all markets, in this state shall be prohibited from offering for sale health benefit plans in that market or markets in this state for a period of five years from the date of the discontinuation of the last coverage not so renewed.

(6) If the plan withdraws a health benefit plan from the market, provided that all of the following conditions are satisfied:

(A) The plan notifies all affected subscribers, contractholders, employers, and enrollees and the director at least 90 days prior to the discontinuation of the plan.

(B) The plan makes available to the individual or group contractholder or employer all health benefit plans that it makes available to new individual or group business, respectively.

(C) In exercising the option to discontinue a health benefit plan under this paragraph and in offering the option of coverage under subparagraph (B), the plan acts uniformly without regard to the claims experience of the individual or contractholder or employer, or any ~~health-status related~~ *health status-related* factor relating to enrollees or potential enrollees.

(D) For small employer health care service plan contracts offered under Article 3.1 (commencing with Section 1357), the premium for the new plan contract complies with the renewal increase requirements set forth in Section 1357.12. This subparagraph shall not apply after December 31, 2013.

(7) In the case of a group health benefit plan, if an individual or employer ceases to be a member of a guaranteed association, as defined in subdivision (n) of Section 1357, but only if that coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any enrollee.

(b) (1) An enrollee or subscriber who alleges that an enrollment or subscription has been or will be improperly canceled, rescinded, or not renewed may request a review by the director pursuant to Section 1368.

(2) If the director determines that a proper complaint exists, the director shall notify the plan and the enrollee or subscriber who requested the review.

(3) If, after review, the director determines that the cancellation, rescission, or failure to renew is contrary to existing law, the director shall order the plan to reinstate the enrollee or subscriber. Within 15 days after receipt of that order, the health care service plan shall request a hearing or reinstate the enrollee or subscriber.

(4) If an enrollee or subscriber requests a review of the health care service plan's determination to cancel or rescind or failure to renew the enrollee's or subscriber's health care service plan contract pursuant to this section, the health care service plan shall continue to provide coverage to the enrollee or subscriber under the terms of the contract until a final determination of the enrollee's or subscriber's request for review has been made by the director. This paragraph shall not apply if the health care service plan cancels or does not renew the enrollee's or subscriber's health care

service plan contract for nonpayment of premiums pursuant to paragraph (1) of subdivision (a).

(5) A reinstatement pursuant to this subdivision shall be retroactive to the time of cancellation, rescission, or failure to renew and the plan shall be liable for the expenses incurred by the subscriber or enrollee for covered health care services from the date of cancellation, rescission, or nonrenewal to and including the date of reinstatement. The health care service plan shall reimburse the enrollee or subscriber for any expenses incurred pursuant to this paragraph within 30 days of receipt of the completed claim.

(c) This section shall not abrogate any preexisting contracts entered into prior to the effective date of this chapter between a subscriber or enrollee and a health care service plan or a specialized health care service plan, including, but not limited to, the financial liability of the plan, except that each plan shall, if directed to do so by the director, exercise its authority, if any, under those preexisting contracts to conform them to ~~the provisions of~~ existing law.

(d) As used in this section, "health benefit plan" means any individual or group insurance policy or health care service plan contract that provides medical, hospital, and surgical benefits. The term does not include accident only, credit, or disability income coverage, coverage of Medicare services pursuant to contracts with the United States government, Medicare supplement ~~insurance~~ *coverage*, long-term care insurance, dental or vision coverage, coverage issued as a supplement to liability insurance, insurance arising out of workers' compensation law or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(e) On or before July 1, 2011, the director may issue guidance to health care service plans regarding compliance with this section and that guidance shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Any guidance issued pursuant to this subdivision shall only be effective through December 31, 2013, or until the director adopts and effects

regulations pursuant to the Administrative Procedure Act, whichever occurs first.

SEC. 141. Section 1367.002 of the Health and Safety Code is amended to read:

1367.002. To the extent required by federal law, a group or individual health care service plan contract issued, amended, renewed, or delivered on or after September 23, 2010, shall comply with Section 2713 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-13)*, as added by Section 1001 of the federal Patient Protection and Affordable Care Act (P.L. 111-148)*, and any rules or regulations issued under that section.

SEC. 142. Section 1385.01 of the Health and Safety Code is amended to read:

1385.01. For purposes of this article, the following definitions shall apply:

(a) "Large group health care service plan contract" means a group health care service plan contract other than a contract issued to a small employer, as defined in Section 1357.

(b) "Small group health care service plan contract" means a group health care service plan contract issued to a small employer, as defined in Section 1357.

(c) "PPACA" means Section 2794 of the federal Public Health Service Act (42 U.S.C. Sec. ~~300gg-14)~~ *300gg-94)*, as amended by the federal Patient Protection and Affordable Care Act ~~(P. L.~~ *(P.L.* 111-48), and any subsequent rules, regulations, or guidance issued under that section.

(d) "Unreasonable rate increase" has the same meaning as that term is defined in PPACA.

SEC. 143. Section 1399.834 of the Health and Safety Code is amended to read:

1399.834. (a) All health care service plan contracts offered to a child or on behalf of a child to a responsible party for a child shall conform to the requirements of Sections *1365*, 1366.3, ~~1365,~~ and 1373.6, and shall be renewable at the option of the enrollee or responsible party for a child on behalf of the enrollee except as permitted to be canceled, rescinded, or not renewed pursuant to Section 1365.

(b) Any plan that ceases to offer for sale new individual health care service plan contracts pursuant to Section 1365 shall continue

to be governed by this article with respect to business conducted under this article.

(c) Except as authorized under Section 1399.833, a plan that, as of the effective date of this article, does not write new health care service plan contracts for children in this state or that, after the effective date of this article, ceases to write new health care service plan contracts for children in this state shall be prohibited from offering for sale new individual health care service plan contracts in this state for a period of five years from the date of notice to the director.

SEC. 144. Section 1399.835 of the Health and Safety Code is amended to read:

1399.835. On or before July 1, 2011, the director may issue guidance to health plans regarding compliance with this article and that guidance shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government ~~Code~~ *Code)*. The guidance shall only be effective until the director and the Insurance Commissioner adopt joint regulations pursuant to the Administrative Procedure Act.

SEC. 145. Section 1506 of the Health and Safety Code is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department that authorizes the licensee to engage in foster family agency functions~~,~~ may use only a certified family home that has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(3) A child with a developmental disability who is placed in a certified family home by a foster family agency that is operating under agreement with the regional center responsible for that child may remain in the certified family home after the age of 18 years. The determination regarding whether and how long he or she may remain as a resident after the age of 18 years shall be made through

the agreement of all parties involved, including the resident, the foster parent, the foster family agency social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator, as appropriate. This determination shall include a needs and service plan that contains an assessment of the child's needs to ensure continued compatibility with the other children in placement. The needs and service plan shall be completed no more than six months prior to the child's 18th birthday. The assessment shall be documented and maintained in the child's file with the foster family agency.

(b) (1) A foster family agency shall certify to the department that the home has met the department's licensing standards. A foster family agency may require a family home to meet additional standards or be compatible with its treatment approach.

(2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home. The certificate shall be valid for a period not to exceed one year. The annual recertification shall require a certified family home to complete at least 12 hours of structured applicable training or continuing education. At least one hour of training during the first six months following initial certification shall be dedicated to meeting the requirements of paragraph (1) of subdivision (b) of Section 11174.1 of the Penal Code.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall develop licensing regulations differentiating between foster family agencies that provide treatment of children in foster families and those that provide nontreatment services.

(d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(e) (1) Requirements for social work personnel for a foster family agency shall be a master's degree from an accredited or ~~state approved~~ *state-approved* graduate school in social work or

social welfare, or equivalent education and experience, as determined by the ~~state~~ department.

(2) Persons who possess a master's degree from an accredited or ~~state approved~~ *state-approved* graduate school in any of the following areas, or equivalent education and experience, as determined by the ~~state~~ department, shall be considered to be qualified to perform social work activities in a foster family agency:

(A) Marriage, family, and child counseling.

(B) Child psychology.

(C) Child development.

(D) Counseling psychology.

(E) Social psychology.

(F) Clinical psychology.

(G) Educational psychology, consistent with the scope of practice as described in Section ~~4986.10~~ *4989.14* of the Business and Professions Code.

(H) Education, with emphasis on counseling.

(f) (1) In addition to the degree specifications in subdivision (e), all of the following coursework and field practice or experience, as defined in departmental regulations, shall be required of all new hires for the position of social work personnel effective January 1, 1995:

(A) At least three semester units of field practice at the master's level or six months' full-time equivalent experience in a public or private social service agency setting.

(B) At least nine semester units of coursework related to human development or human behavior, or, within the first year of employment, experience working with children and families as a major responsibility of the position under the supervision of a supervising social worker.

(C) At least three semester units in working with minority populations or six months of experience in working with minority populations or training in cultural competency and working with minority populations within the first six months of employment as a condition of employment.

(D) At least three semester units in child welfare or at least six months of experience in a public or private child welfare social services setting for a nonsupervisory social worker. A supervising social worker shall have two years' experience in a public or private child welfare social services setting.

(2) (A) Persons who do not meet the requirements specified in subdivision (e) or (f) may apply for an exception as provided for in subdivisions (g) and (h).

(B) Exceptions granted by the department prior to January 1, 1995, shall remain in effect.

(3) (A) Persons who are hired as social work personnel on or after January 1, 1995, who do not meet the requirements listed in this subdivision shall be required to successfully meet those requirements in order to be employed as social work personnel in a foster family agency.

(B) Employees who were hired prior to January 1, 1995, shall not be required to meet the requirements of this subdivision in order to remain employed as social work personnel in a foster family agency.

(4) Coursework and field practice or experience completed to fulfill the degree requirements of subdivision (e) may be used to satisfy the requirements of this subdivision.

(g) Individuals seeking an exception to the requirements of subdivision (e) or (f) based on completion of equivalent education and experience shall apply to the department by the process established by the department.

(h) The ~~State Department of Social Services~~ *department* shall be required to complete the process for the exception to minimum education and experience requirements described in subdivisions (e) and (f) within 30 days of receiving the exception application of social work personnel or supervising social worker qualifications from the foster family agency.

(i) The department shall review the feasibility of instituting a licensure category to cover foster homes that are established specifically to care for and supervise adults with developmental disabilities, as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code, to prevent the institutionalization of those individuals.

(j) For purposes of this section, “social work personnel” means supervising social workers as well as nonsupervisory social workers.

SEC. 146. Section 1777 of the Health and Safety Code is amended to read:

1777. (a) The Continuing Care Advisory Committee of the department shall act in an advisory capacity to the department on matters relating to continuing care contracts.

(b) The members of the committee shall include:

(1) Three representatives of nonprofit continuing care providers pursuant to this chapter, each of whom shall have offered continuing care services for at least five years prior to appointment. One member shall represent a multifacility provider and shall be appointed by the Governor in even years. One member shall be appointed by the Senate Committee on Rules in odd years. One member shall be appointed by the Speaker of the Assembly in odd years.

(2) Three senior citizens who are not eligible for appointment pursuant to paragraphs (1) and (4) who shall represent consumers of continuing care services, all of whom shall be residents of continuing care retirement communities but not residents of the same provider. One senior citizen member shall be appointed by the Governor in even years. One senior citizen member shall be appointed by the Senate Committee on Rules in odd years. One senior citizen member shall be appointed by the Speaker of the Assembly in odd years.

(3) A certified public accountant with experience in the continuing care industry, who is not a provider of continuing care services. This member shall be appointed by the Governor in even years.

(4) A representative of a for-profit provider of continuing care contracts pursuant to this chapter. This member shall be appointed by the Governor in even years.

(5) An actuary. This member shall be appointed by the Governor in even years.

(6) One representative of residents of continuing care retirement communities appointed by the senior citizen representatives on the committee.

(7) One representative of either nonprofit or for-profit providers appointed by the representatives of nonprofit and ~~for-provider~~ *for-profit* providers on the committee.

(c) Commencing January 1, 1997, all members shall serve two-year terms and be appointed based on their interest and expertise in the subject area. The Governor shall designate the chairperson for the committee with the advice and consent of the

Senate. A member may be reappointed at the pleasure of the appointing power. The appointing power shall fill all vacancies on the committee within 60 days. All members shall continue to serve until their successors are appointed and qualified.

(d) The members of the committee shall serve without compensation, except that each member shall be paid from the Continuing Care Provider Fee Fund a per diem of twenty-five dollars ($25) for each day's attendance at a meeting of the committee not to exceed six days in any month. The members of the committee shall also receive their actual and necessary travel expenses incurred in the course of their duties. Reimbursement of travel expenses shall be at rates not to exceed those applicable to comparable state employees under Department of Personnel Administration regulations.

(e) Prior to commencement of service, each member shall file with the department a statement of economic interest and a statement of conflict of interest pursuant to Article 3 (commencing with Section 87300) of the Government Code.

(f) If, during the period of appointment, any member no longer meets the qualifications of subdivision (b), that member shall submit his or her resignation to their appointing power and a qualified new member shall be appointed by the same power to fulfill the remainder of the term.

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 147. Section 1788 of the Health and Safety Code is amended to read:

1788. (a) A continuing care contract shall contain all of the following:

(1) The legal name and address of each provider.

(2) The name and address of the continuing care retirement community.

(3) The resident's name and the identity of the unit the resident will occupy.

(4) If there is a transferor other than the resident, the transferor shall be a party to the contract and the transferor's name and address shall be specified.

(5) If the provider has used the name of any charitable or religious or nonprofit organization in its title before January 1,

1979, and continues to use that name, and that organization is not responsible for the financial and contractual obligations of the provider or the obligations specified in the continuing care contract, the provider shall include in every continuing care contract a conspicuous statement that clearly informs the resident that the organization is not financially responsible.

(6) The date the continuing care contract is signed by the resident and, where applicable, any other transferor.

(7) The duration of the continuing care contract.

(8) A list of the services that will be made available to the resident as required to provide the appropriate level of care. The list of services shall include the services required as a condition for licensure as a residential care facility for the elderly, including all of the following:

(A) Regular observation of the resident's health status to ensure that his or her dietary needs, social needs, and needs for special services are satisfied.

(B) Safe and healthful living accommodations, including housekeeping services and utilities.

(C) Maintenance of house rules for the protection of residents.

(D) A planned activities program, which includes social and recreational activities appropriate to the interests and capabilities of the resident.

(E) Three balanced, nutritious meals and snacks made available daily, including special diets prescribed by a physician as a medical necessity.

(F) Assisted living services.

(G) Assistance with taking medications.

(H) Central storing and distribution of medications.

(I) Arrangements to meet health needs, including arranging transportation.

(9) An itemization of the services that are included in the monthly fee and the services that are available at an extra charge. The provider shall attach a current fee schedule to the continuing care contract.

(10) The procedures and conditions under which a resident may be voluntarily and involuntarily transferred from a designated living unit. The transfer procedures, at a minimum, shall include provisions addressing all of the following circumstances under which a transfer may be authorized:

(A) A continuing care retirement community may transfer a resident under the following conditions, taking into account the appropriateness and necessity of the transfer and the goal of promoting resident independence:

(i) The resident is nonambulatory. The definition of "nonambulatory," as provided in Section 13131, shall either be stated in full in the continuing care contract or be cited. If Section 13131 is cited, a copy of the statute shall be made available to the resident, either as an attachment to the continuing care contract or by specifying that it will be provided upon request. If a nonambulatory resident occupies a room that has a fire clearance for nonambulatory ~~residence~~ *residents*, transfer shall not be necessary.

(ii) The resident develops a physical or mental condition that endangers the health, safety, or well-being of the resident or another person.

(iii) The resident's condition or needs require the resident's transfer to an assisted living care unit or skilled nursing facility, because the level of care required by the resident exceeds that which may be lawfully provided in the living unit.

(iv) The resident's condition or needs require the resident's transfer to a nursing facility, hospital, or other facility, and the provider has no facilities available to provide that level of care.

(B) Before the continuing care retirement community transfers a resident under any of the conditions set forth in subparagraph (A), the community shall satisfy all of the following requirements:

(i) Involve the resident and the resident's responsible person, as defined in paragraph (6) of subdivision (r) of Section 87101 of Title 22 of the California Code of Regulations, and upon the resident's or responsible person's request, family members, or the resident's physician or other appropriate health professional, in the assessment process that forms the basis for the level of care transfer decision by the provider. The provider shall offer an explanation of the assessment process. If an assessment tool or tools, including scoring and evaluating criteria, are used in the determination of the appropriateness of the transfer, the provider shall make copies of the completed assessment available upon the request of the resident or the resident's responsible person.

(ii) Prior to sending a formal notification of transfer, the provider shall conduct a care conference with the resident and the resident's

responsible person, and upon the resident's or responsible person's request, family members, and the resident's health care professionals, to explain the reasons for transfer.

(iii) Notify the resident and the resident's responsible person of the reasons for the transfer in writing.

(iv) Notwithstanding any other provision of this subparagraph, if the resident does not have impairment of cognitive abilities, the resident may request that his or her responsible person not be involved in the transfer process.

(v) The notice of transfer shall be made at least 30 days before the transfer is expected to occur, except when the health or safety of the resident or other residents is in danger, or the transfer is required by the resident's urgent medical needs. Under those circumstances, the written notice shall be made as soon as practicable before the transfer.

(vi) The written notice shall contain the reasons for the transfer, the effective date, the designated level of care or location to which the resident will be transferred, a statement of the resident's right to a review of the transfer decision at a care conference, as provided for in subparagraph (C), and for disputed transfer decisions, the right to review by the Continuing Care Contracts Branch of the State Department of Social Services, as provided for in subparagraph (D). The notice shall also contain the name, address, and telephone number of the department's Continuing Care Contracts Branch.

(vii) The continuing care retirement community shall provide sufficient preparation and orientation to the resident to ensure a safe and orderly transfer and to minimize trauma.

(C) The resident has the right to review the transfer decision at a subsequent care conference that shall include the resident, the resident's responsible person, and upon the resident's or responsible person's request, family members, the resident's physician or other appropriate health care professional, and members of the provider's interdisciplinary team. The local ombudsperson may also be included in the care conference, upon the request of the resident, the resident's responsible person, or the provider.

(D) For disputed transfer decisions, the resident or the resident's responsible person has the right to a prompt and timely review of

the transfer process by the Continuing Care Contracts Branch of the State Department of Social Services.

(E) The decision of the department's Continuing Care Contracts Branch shall be in writing and shall determine whether the provider failed to comply with the transfer process pursuant to subparagraphs (A) to (C), inclusive. Pending the decision of the Continuing Care Contracts Branch, the provider shall specify any additional care the provider believes is necessary in order for the resident to remain in his or her unit. The resident may be required to pay for the extra care, as provided in the contract.

(F) Transfer of a second resident when a shared accommodation arrangement is terminated.

(11) Provisions describing any changes in the resident's monthly fee and any changes in the entrance fee refund payable to the resident that will occur if the resident transfers from any unit, including, but not limited to, terminating his or her contract after 18 months of residential temporary relocation, as defined in paragraph (8) of subdivision (r) of Section 1771.

(12) The provider's continuing obligations, if any, in the event a resident is transferred from the continuing care retirement community to another facility.

(13) The provider's obligations, if any, to resume care upon the resident's return after a transfer from the continuing care retirement community.

(14) The provider's obligations to provide services to the resident while the resident is absent from the continuing care retirement community.

(15) The conditions under which the resident must permanently release his or her living unit.

(16) If real or personal properties are transferred in lieu of cash, a statement specifying each item's value at the time of transfer, and how the value was ascertained.

(A) An itemized receipt that includes the information described above is acceptable if incorporated as a part of the continuing care contract.

(B) When real property is or will be transferred, the continuing care contract shall include a statement that the deed or other instrument of conveyance shall specify that the real property is conveyed pursuant to a continuing care contract and may be subject

to rescission by the transferor within 90 days from the date that the resident first occupies the residential unit.

(C) The failure to comply with *this* paragraph ~~(16)~~ shall not affect the validity of title to real property transferred pursuant to this chapter.

(17) The amount of the entrance fee.

(18) In the event two parties have jointly paid the entrance fee or other payment that allows them to occupy the unit, the continuing care contract shall describe how any refund of entrance fees is allocated.

(19) The amount of any processing fee.

(20) The amount of any monthly care fee.

(21) For continuing care contracts that require a monthly care fee or other periodic payment, the continuing care contract shall include the following:

(A) A statement that the occupancy and use of the accommodations by the resident is contingent upon the regular payment of the fee.

(B) The regular rate of payment agreed upon (per day, week, or month).

(C) A provision specifying whether payment will be made in advance or after services have been provided.

(D) A provision specifying the provider will adjust monthly care fees for the resident's support, maintenance, board, or lodging, when a resident requires medical attention while away from the continuing care retirement community.

(E) A provision specifying whether a credit or allowance will be given to a resident who is absent from the continuing care retirement community or from meals. This provision shall also state, when applicable, that the credit may be permitted at the discretion or by special permission of the provider.

(F) A statement of billing practices, procedures, and timelines. A provider shall allow a minimum of 14 days between the date a bill is sent and the date payment is due. A charge for a late payment may only be assessed if the amount and any condition for the penalty is stated on the bill.

(22) All continuing care contracts that include monthly care fees shall address changes in monthly care fees by including either of the following provisions:

(A) For prepaid continuing care contracts, which include monthly care fees, one of the following methods:

(i) Fees shall not be subject to change during the lifetime of the agreement.

(ii) Fees shall not be increased by more than a specified number of dollars in any one year and not more than a specified number of dollars during the lifetime of the agreement.

(iii) Fees shall not be increased in excess of a specified percentage over the preceding year and not more than a specified percentage during the lifetime of the agreement.

(B) For monthly fee continuing care contracts, except prepaid contracts, changes in monthly care fees shall be based on projected costs, prior year per capita costs, and economic indicators.

(23) A provision requiring that the provider give written notice to the resident at least 30 days in advance of any change in the resident's monthly care fees or in the price or scope of any component of care or other services.

(24) A provision indicating whether the resident's rights under the continuing care contract include any proprietary interests in the assets of the provider or in the continuing care retirement community, or both. Any statement in a contract concerning an ownership interest shall appear in a large-sized font or print.

(25) If the continuing care retirement community property is encumbered by a security interest that is senior to any claims the residents may have to enforce continuing care contracts, a provision shall advise the residents that any claims they may have under the continuing care contract are subordinate to the rights of the secured lender. For equity projects, the continuing care contract shall specify the type and extent of the equity interest and whether any entity holds a security interest.

(26) Notice that the living units are part of a continuing care retirement community that is licensed as a residential care facility for the elderly and, as a result, any duly authorized agent of the department may, upon proper identification and upon stating the purpose of his or her visit, enter and inspect the entire premises at any time, without advance notice.

(27) A conspicuous statement, in at least 10-point boldface type in immediate proximity to the space reserved for the signatures of the resident and, if applicable, the transferor, that provides as follows: "You, the resident or transferor, may cancel the transaction

without cause at any time within 90 days from the date you first occupy your living unit. See the attached notice of cancellation form for an explanation of this right."

(28) Notice that during the cancellation period, the continuing care contract may be canceled upon 30 days' written notice by the provider without cause, or that the provider waives this right.

(29) The terms and conditions under which the continuing care contract may be terminated after the cancellation period by either party, including any health or financial conditions.

(30) A statement that, after the cancellation period, a provider may unilaterally terminate the continuing care contract only if the provider has good and sufficient cause.

(A) Any continuing care contract containing a clause that provides for a continuing care contract to be terminated for "just cause," "good cause," or other similar provision, shall also include a provision that none of the following activities by the resident, or on behalf of the resident, constitutes "just cause," "good cause," or otherwise activates the termination provision:

(i) Filing or lodging a formal complaint with the department or other appropriate authority.

(ii) Participation in an organization or affiliation of residents, or other similar lawful activity.

(B) The provision required by this paragraph shall also state that the provider shall not discriminate or retaliate in any manner against any resident of a continuing care retirement community for contacting the department, or any other state, county, or city agency, or any elected or appointed government official to file a complaint or for any other reason, or for participation in a residents' organization or association.

(C) Nothing in this paragraph diminishes the provider's ability to terminate the continuing care contract for good and sufficient cause.

(31) A statement that at least 90 days' written notice to the resident is required for a unilateral termination of the continuing care contract by the provider.

(32) A statement concerning the length of notice that a resident is required to give the provider to voluntarily terminate the continuing care contract after the cancellation period.

(33) The policy or terms for refunding any portion of the entrance fee, in the event of cancellation, termination, or death.

Every continuing care contract that provides for a refund of all or a part of the entrance fee shall also do all of the following:

(A) Specify the amount, if any, the resident has paid or will pay for upgrades, special features, or modifications to the resident's unit.

(B) State that if the continuing care contract is canceled or terminated by the provider, the provider shall do both of the following:

(i) Amortize the specified amount at the same rate as the resident's entrance fee.

(ii) Refund the unamortized balance to the resident at the same time the provider pays the resident's entrance fee refund.

(C) State that the resident has a right to terminate his or her contract after 18 months of residential temporary relocation, as defined in paragraph (8) of subdivision (r) of Section 1771. Provisions for refunds due to cancellation pursuant to this subparagraph shall be set forth in the contract.

(34) The following notice at the bottom of the signatory page:

"NOTICE" (date)

~~This~~ "*This* is a continuing care contract as defined by paragraph (8) of subdivision (c), or subdivision (*l*) of Section 1771 of the California Health and Safety Code. This continuing care contract form has been approved by the State Department of Social Services as required by subdivision (b) of Section 1787 of the California Health and Safety Code. The basis for this approval was a determination that (provider name) has submitted a contract that complies with the minimum statutory requirements applicable to continuing care contracts. The department does not approve or disapprove any of the financial or health care coverage provisions in this contract. Approval by the department is NOT a guaranty of performance or an endorsement of any continuing care contract provisions. Prospective transferors and residents are strongly encouraged to carefully consider the benefits and risks of this continuing care contract and to seek financial and legal advice before ~~signing.~~ *signing.*"

(35) The provider may not attempt to absolve itself in the continuing care contract from liability for its negligence by any statement to that effect, and shall include the following statement

in the contract: "Nothing in this continuing care contract limits either the provider's obligation to provide adequate care and supervision for the resident or any liability on the part of the provider which may result from the provider's failure to provide this care and supervision."

(36) Provisions describing how the provider will proceed in the event of a closure, including an explanation of how the provider will comply with Sections 1793.80, 1793.81, 1793.82, and 1793.83.

(b) A life care contract shall also provide that:

(1) All levels of care, including acute care and physicians' and surgeons' services, will be provided to a resident.

(2) Care will be provided for the duration of the resident's life unless the life care contract is canceled or terminated by the provider during the cancellation period or after the cancellation period for good cause.

(3) A comprehensive continuum of care will be provided to the resident, including skilled nursing, in a facility under the ownership and supervision of the provider on, or adjacent to, the continuing care retirement community premises.

(4) Monthly care fees will not be changed based on the resident's level of care or service.

(5) A resident who becomes financially unable to pay his or her monthly care fees shall be subsidized provided the resident's financial need does not arise from action by the resident to divest the resident of his or her assets.

(c) Continuing care contracts may include provisions that do any of the following:

(1) Subsidize a resident who becomes financially unable to pay for his or her monthly care fees at some future date. If a continuing care contract provides for subsidizing a resident, it may also provide for any of the following:

(A) The resident shall apply for any public assistance or other aid for which he or she is eligible and that the provider may apply for assistance on behalf of the resident.

(B) The provider's decision shall be final and conclusive regarding any adjustments to be made or any action to be taken regarding any charitable consideration extended to any of its residents.

(C) The provider is entitled to payment for the actual costs of care out of any property acquired by the resident subsequent to

any adjustment extended to the resident under *this* paragraph ~~(1)~~, or from any other property of the resident that the resident failed to disclose.

(D) The provider may pay the monthly premium of the resident's health insurance coverage under Medicare to ensure that those payments will be made.

(E) The provider may receive an assignment from the resident of the right to apply for and to receive the benefits, for and on behalf of the resident.

(F) The provider is not responsible for the costs of furnishing the resident with any services, supplies, and medication, when reimbursement is reasonably available from any governmental agency, or any private insurance.

(G) Any refund due to the resident at the termination of the continuing care contract may be offset by any prior subsidy to the resident by the provider.

(2) Limit responsibility for costs associated with the treatment or medication of an ailment or illness existing prior to the date of admission. In these cases, the medical or surgical exceptions, as disclosed by the medical entrance examination, shall be listed in the continuing care contract or in a medical report attached to and made a part of the continuing care contract.

(3) Identify legal remedies that may be available to the provider if the resident makes any material misrepresentation or omission pertaining to the resident's assets or health.

(4) Restrict transfer or assignments of the resident's rights and privileges under a continuing care contract due to the personal nature of the continuing care contract.

(5) Protect the provider's ability to waive a resident's breach of the terms or provisions of the continuing care contract in specific instances without relinquishing its right to insist upon full compliance by the resident with all terms or provisions in the contract.

(6) Provide that the resident shall reimburse the provider for any uninsured loss or damage to the resident's unit, beyond normal wear and tear, resulting from the resident's carelessness or negligence.

(7) Provide that the resident agrees to observe the off-limit areas of the continuing care retirement community designated by the provider for safety reasons. The provider may not include any

provision in a continuing care contract that absolves the provider from liability for its negligence.

(8) Provide for the subrogation to the provider of the resident's rights in the case of injury to a resident caused by the acts or omissions of a third party, or for the assignment of the resident's recovery or benefits in this case to the provider, to the extent of the value of the goods and services furnished by the provider to or on behalf of the resident as a result of the injury.

(9) Provide for a lien on any judgment, settlement, or recovery for any additional expense incurred by the provider in caring for the resident as a result of injury.

(10) Require the resident's cooperation and assistance in the diligent prosecution of any claim or action against any third party.

(11) Provide for the appointment of a conservator or guardian by a court with jurisdiction in the event a resident becomes unable to handle his or her personal or financial affairs.

(12) Allow a provider, whose property is tax exempt, to charge the resident, on a pro rata basis, property taxes, or in-lieu taxes, that the provider is required to pay.

(13) Make any other provision approved by the department.

(d) A copy of the resident's rights as described in Section 1771.7 shall be attached to every continuing care contract.

(e) A copy of the current audited financial statement of the provider shall be attached to every continuing care contract. For a provider whose current audited financial statement does not accurately reflect the financial ability of the provider to fulfill the continuing care contract obligations, the financial statement attached to the continuing care contract shall include all of the following:

(1) A disclosure that the reserve requirement has not yet been determined or met, and that entrance fees will not be held in escrow.

(2) A disclosure that the ability to provide the services promised in the continuing care contract will depend on successful compliance with the approved financial plan.

(3) A copy of the approved financial plan for meeting the reserve requirements.

(4) Any other supplemental statements or attachments necessary to accurately represent the provider's financial ability to fulfill its continuing care contract obligations.

(f) A schedule of the average monthly care fees charged to residents for each type of residential living unit for each of the five years preceding execution of the continuing care contract shall be attached to every continuing care contract. The provider shall update this schedule annually at the end of each fiscal year. If the continuing care retirement community has not been in existence for five years, the information shall be provided for each of the years the continuing care retirement community has been in existence.

(g) If any continuing care contract provides for a health insurance policy for the benefit of the resident, the provider shall attach to the continuing care contract a binder complying with Sections 382 and 382.5 of the Insurance Code.

(h) The provider shall attach to every continuing care contract a completed form in duplicate, captioned "Notice of Cancellation." The notice shall be easily detachable, and shall contain, in at least 10-point boldface type, the following statement:

"NOTICE OF CANCELLATION" (date)

Your first date of occupancy under this contract is: _____

"You may cancel this transaction, without any penalty within 90 calendar days from the above date.

If you cancel, any property transferred, any payments made by you under the contract, and any negotiable instrument executed by you will be returned within 14 calendar days after making possession of the living unit available to the provider. Any security interest arising out of the transaction will be canceled.

If you cancel, you are obligated to pay a reasonable processing fee to cover costs and to pay for the reasonable value of the services received by you from the provider up to the date you canceled or made available to the provider the possession of any living unit delivered to you under this contract, whichever is later.

If you cancel, you must return possession of any living unit delivered to you under this contract to the provider in substantially the same condition as when you took possession.

Possession of the living unit must be made available to the provider within 20 calendar days of your notice of cancellation. If you fail to make the possession of any living unit available to

the provider, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____
(Name of provider)
at _____
(Address of provider's place of business)
not later than midnight of _____ (date).
I hereby cancel this
transaction _____
~~(Resident~~ *(Resident's* or
Transferor's signature)"

SEC. 148. Section 1793.90 of the Health and Safety Code is amended to read:

1793.90. (a) All providers shall include in resident contracts the procedures to be followed to ensure that residential temporary relocations provide comparable levels of care, services, and living accommodations as described in the resident's contract.

(b) The provider shall notify the resident of the impending relocation at least 60 days in advance of the relocation.

(c) The provider shall meet with the resident and, at the resident's request, family members or other individuals, at least 30 days in advance of the transfer to discuss all aspects of the transfer, including, but not limited to, the rights, requirements, and procedures set forth in this article. Notice of this meeting shall be provided in writing and at least seven days in advance of the meeting and shall include all of the following information:

(1) The date of the transfer.

(2) The available replacement unit or units and monthly fees.

(3) The time when the resident will be able to inspect the replacement unit or units.

(4) The estimated date when the resident will be able to return to his or her unit or may move to a substitute permanent unit.

(d) If accommodations are not available at a continuing care retirement community operated by the provider within a 30-mile radius, the provider shall be required to provide a unit in a facility,

agreed to by the resident, that most closely provides the services, size, features, and amenities provided in the unit being vacated.

(e) The provider shall be required to arrange and pay for all moving costs to the new facility and moving costs to the reconstructed facility, if the resident returns, as well as storage costs.

(f) The resident shall only be required to pay to the provider the monthly fee required in the resident's contract, or the monthly fee in the new facility, whichever is less. The provider shall be required to make payment to the facility ~~at~~ *to* which the resident is relocated.

(g) Upon request by the resident or the resident's representative, the provider shall make available the services of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the relocation of the resident. The provider may place a reasonable limit on the cost of the services of the medical or geriatric professional.

(h) The provider shall identify unique service and care needs, if applicable, for a resident directly affected by the residential temporary relocation. The unique services and care needs identified shall be in writing and shall become a part of the resident's plan of care.

SEC. 149. Section 1797.172 of the Health and Safety Code is amended to read:

1797.172. (a) The authority shall develop and, after approval by the commission pursuant to Section 1799.50, adopt minimum standards for the training and scope of practice for EMT-P.

(b) The approval of the director, in consultation with a committee of local EMS medical directors named by the EMS Medical Directors Association of California, is required prior to implementation of any addition to a local optional scope of practice for EMT-Ps proposed by the medical director of a local EMS agency.

(c) Notwithstanding any other provision of law, the authority shall be the agency solely responsible for licensure and licensure renewal of EMT-Ps who meet the standards and are not precluded from licensure because of any of the reasons listed in subdivision (d) of Section 1798.200. Each application for licensure or licensure renewal shall require the applicant's social security number in order to establish the identity of the applicant. The information obtained as a result of a state and federal level criminal offender

record information search shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure or licensure renewal pursuant to this division. Submission of fingerprint images to the Department of Justice may not be required for licensure renewal upon determination by the authority that fingerprint images have previously been submitted to the Department of Justice during initial licensure, or a previous licensure renewal, provided that the license has not lapsed and the applicant has resided continuously in the state since the initial licensure.

(d) The authority shall charge fees for the licensure and licensure renewal of EMT-Ps in an amount sufficient to support the authority's licensure program at a level that ensures the qualifications of the individuals licensed to provide quality care. The basic fee for licensure or licensure renewal of an EMT-P shall not exceed one hundred twenty-five dollars ($125) until the adoption of regulations that specify a different amount that does not exceed the authority's EMT-P licensure, license renewal, and enforcement programs. The authority shall annually evaluate fees to determine if the fee is sufficient to fund the actual costs of the authority's licensure, licensure renewal, and enforcement programs. If the evaluation shows that the fees are excessive or are insufficient to fund the actual costs of the authority's EMT-P licensure, licensure renewal, and enforcement programs, then the fees shall be adjusted accordingly through the rulemaking process described in the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants for licensure and licensure renewal, including, but not limited to, any of the following services:

(1) Initial application for licensure as an EMT-P.

(2) Competency testing, the fee for which shall not exceed thirty dollars ($30), except that an additional fee may be charged for the cost of any services that provide enhanced availability of the exam for the convenience of the EMT-P, such as on-demand electronic testing.

(3) Fingerprint and criminal record check. The applicant shall, if applicable according to subdivision (c), submit fingerprint images and related information for criminal offender record information

searches with the Department of Justice and the Federal Bureau of Investigation.

(4) Out-of-state training equivalency determination.

(5) Verification of continuing education for a lapse in licensure.

(6) Replacement of a lost licensure card. The fees charged for individual services shall be set so that the total fees charged to EMT-Ps shall not exceed the authority's actual total cost for the EMT-P licensure program.

(e) The authority may provide nonconfidential, nonpersonal information relating to EMS programs to interested persons upon request, and may establish and assess fees for the provision of this information. These fees shall not exceed the costs of providing the information.

(f) At the option of the authority, fees may be collected for the authority by an entity that contracts with the authority to provide any of the services associated with the EMT-P program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall be transmitted to the authority for deposit into the Emergency Medical Services Personnel Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

SEC. 150. Section 1797.217 of the Health and Safety Code is amended to read:

1797.217. (a) Every certifying entity shall submit to the authority certification data required by Section 1797.117.

(b) The authority shall collect fees from each certifying entity for the certification and certification renewal of each EMT-I and EMT-II in an amount sufficient to support the authority's central registry program and the local EMS agency administrative law judge reimbursement program. Separate additional fees may be charged, at the option of the authority, for services that are not shared by all applicants.

(c) The authority's fees shall be established in regulations, and fees charged for individual services shall be set so that the total fees charged shall not exceed the authority's actual total cost for the authority's central registry program, state and federal criminal offender record information search response program, and the local EMS agency administrative law judge reimbursement program.

(d) In addition to any fees collected by EMT-I or EMT-II certifying entities to support their certification, recertification, or enforcement programs, EMT-I or EMT-II certifying entities shall collect fees to support the authority's central registry program, and the local EMS agency administrative law judge reimbursement program. In lieu of collecting fees from an individual, pursuant to an employer choice, a collective bargaining agreement, or other employment contract, the certifying entity shall provide the appropriate fees to the authority pursuant to this subdivision.

(e) All fees collected for or provided to the authority in a calendar month by an EMT-I or EMT-II certifying entity pursuant to this section shall be transmitted to the authority for deposit into the Emergency Medical Technician Certification Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the certifying entity, unless a contract between the certifying entity and the authority specifies a different timeframe.

(f) At the option of the authority, fees may be collected for the authority by an entity that contracts with the authority to provide any of the services associated with the registry program, or the state and federal criminal offender record information search response program, or the local EMS agency administrative law judge reimbursement program. All fees collected for the authority in a calendar month by any entity designated by the authority pursuant to this section to collect fees for the authority shall be transmitted to the authority for deposit into the Emergency Medical Technician Certification Fund within 30 calendar days following the last day of the calendar month in which the fees were received by the designated entity, unless the contract between the entity and the authority specifies a different timeframe.

(g) The authority shall annually evaluate fees to determine if the fee is sufficient to fund the actual costs of the authority's central registry program, state and federal criminal offender record information search response program, and local EMS agency administrative law judge reimbursement program. If the evaluation shows that the fees are excessive or are insufficient to fund the actual costs of these programs, then the fees will be adjusted accordingly through the rulemaking process as outlined in the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(h) The Emergency Medical Technician Certification Fund is hereby created in the State Treasury. All moneys deposited in the fund shall be made available, upon appropriation, to the authority for purposes of the central registry program, state and federal criminal offender record information search response program, and the local EMS agency administrative law judge reimbursement program. The local EMS agency administrative law judge reimbursement program is solely for the purpose of making reimbursements to local emergency medical service agencies for actual administrative law judge costs regarding EMT-I or EMT-II disciplinary action appeals. Reimbursement to the local emergency medical service agencies shall only be made if adequate funds are available from fees collected for the authority's local EMS agency administrative law judge reimbursement program.

(i) The authority may transfer unused portions of the Emergency Medical Technician Certification Fund to the Surplus Money Investment Fund. Funds transferred to the Surplus Money Investment Fund shall be placed in a separate trust account, and shall be available for transfer to the Emergency Medical Technician Certification Fund, together with interest earned, when requested by the authority.

(j) The authority shall maintain a reserve balance in the Emergency Medical Technician Certification Fund of 5 percent of annual revenues. Any increase in the fees deposited in the Emergency Medical Technician Certification Fund shall be effective upon a determination by the authority that additional moneys are required to fund expenditures of this section.

SEC. 151. Section 8016 of the Health and Safety Code is amended to read:

8016. (a) If there is more than one request for repatriation for the same item, or there is a dispute between the requesting party and the agency or museum, or if a dispute arises in relation to the repatriation process, the commission shall notify the affected parties of this fact and the cultural affiliation of the item in question shall be determined in accordance with this section.

(b) Any agency or museum receiving a repatriation request pursuant to subdivision (a) shall repatriate human remains and cultural items if all of the following criteria have been met:

(1) The requested human remains or cultural items meet the definitions of human remains or cultural items that are subject to inventory requirements under subdivision (a) of Section 8013.

(2) The state cultural affiliation of the human remains or cultural items is established as required under subdivision (f) of Section 8012.

(3) The agency or museum is unable to present evidence that, if standing alone before the introduction of evidence to the contrary, would support a finding that the agency or museum has a right of possession to the requested cultural items.

(4) None of the exemptions listed in Section 10.10(c) of Title 43 of the Federal Code of Regulations apply.

(5) All other applicable requirements of regulations adopted under the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.), contained in Part 10 of Title 43 of the Code of Federal Regulations, have been met.

(c) Within 30 days after notice has been provided by the commission, the museum or agency shall have the right to file with the commission any objection to the requested repatriation, based on its good faith belief that the requested human remains or cultural items are not culturally affiliated with the requesting California tribe or are not subject to repatriation under this chapter.

(d) The disputing parties shall submit documentation describing the nature of the dispute, in accordance with standard mediation practices and the commission's procedures, to the commission, which shall, in turn, forward the documentation to the opposing party or parties. The disputing parties shall meet within 30 days of the date of the mailing of the documentation with the goal of settling the dispute.

(e) If, after meeting pursuant to subdivision (b), the parties are unable to settle the dispute, the commission, or a certified mediator designated by the commission in accordance with subdivision (b) of Section 8026, shall mediate the dispute.

(f) Each disputing party shall submit complaints and supporting evidence to the commission or designated mediator and the other opposing parties detailing their positions on the disputed issues in accordance with standard mediation practices and the commission's mediation procedures. Each party shall have 20 days from the date the complaint and supporting evidence were mailed to respond to

the complaints. All responses shall be submitted to the opposing party or parties and the commission or designated mediator.

(g) The commission or designated mediator shall review all complaints, responses, and supporting evidence submitted. Within 20 days after the date of submission of responses, the commission or designated mediator shall hold a mediation session and render a decision within seven days of the date of the mediation session.

(h) When the disposition of any items are disputed, the party in possession of the items shall retain possession until the mediation process is completed. No transfer of items shall occur until the dispute is resolved.

(i) Tribal oral histories, documentations, and testimonies shall not be afforded less evidentiary weight than other relevant categories of evidence on account of being in those categories.

(j) If the parties are unable to resolve a dispute through mediation, the dispute shall be resolved by the commission. The determination of the commission shall be deemed to constitute a final administrative remedy. Any party to the dispute seeking a review of the determination of the commission is entitled to file an action in the superior court seeking an independent ~~judgement~~ *judgment* on the record as to whether the commission's decision is supported by a preponderance of the evidence. The independent review shall not constitute a de novo review of a decision by the commission, but shall be limited to a review of the evidence on the record. Petitions for review shall be filed with the court not later than 30 days after the final decision of the commission.

SEC. 152. Section 11364 of the Health and Safety Code is amended to read:

11364. (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a

container that meets state and federal standards for disposal of sharps waste.

(c) Pursuant to authorization by a county, with respect to all of the territory within the county, or a city, with respect to the territory within ~~in~~ the city, for the period commencing January 1, 2005, and ending December 31, 2018, subdivision (a) shall not apply to the possession solely for personal use of 10 or fewer hypodermic needles or syringes if acquired from an authorized source.

SEC. 153. Section 16500 of the Health and Safety Code is amended to read:

16500. The office of the State Architect shall adopt guidelines applicable to substandard conditions of school buildings, as defined in Section ~~39141~~ *17283* of the Education Code, which guidelines shall take into consideration the unique design, use, safety needs, and construction of the school buildings.

SEC. 154. Section 25214.2 of the Health and Safety Code is amended to read:

25214.2. (a) A person shall not manufacture, ship, sell, offer for sale, or offer for promotional purposes jewelry for retail sale or promotional purposes in the state, unless the jewelry is made entirely from a class 1, class 2, or class 3 material, or any combination ~~thereof~~ *of those materials*.

(b) Notwithstanding subdivision (a), a person shall not manufacture, ship, sell, offer for sale, or offer for promotional purposes children's jewelry for retail sale or promotional purposes in the state, unless the children's jewelry is made entirely from one or more of the following materials:

(1) A nonmetallic material that is a class 1 material and that does not otherwise violate the requirements of paragraph (4).

(2) A nonmetallic material that is a class 2 material.

(3) A metallic material that is either a class 1 material or contains less than 0.06 percent (600 parts per million) lead by weight.

(4) Glass or crystal decorative components that weigh in total no more than one gram, excluding any glass or crystal decorative component that contains less than 0.02 percent (200 parts per million) lead by weight and has no intentionally added lead.

(5) Printing ink or ceramic glaze that contains less than 0.06 percent (600 parts per million) lead by weight.

(6) Class 3 material that contains less than 0.02 percent (200 parts per million) lead by weight.

(c) Notwithstanding subdivision (a), a person shall not manufacture, ship, sell, offer for sale, or offer for promotional purposes body piercing jewelry for retail sale or promotional purposes in the state, unless the body piercing jewelry is made of one or more of the following materials:

(1) Surgical implant stainless steel.

(2) Surgical implant grade of titanium.

(3) Niobium (Nb).

(4) Solid 14 karat or higher white or yellow nickel-free gold.

(5) Solid platinum.

(6) A dense low-porosity plastic, including, but not limited to, Tygon or Polytetrafluoroethylene (PTFE), if the plastic contains no intentionally added lead.

(d) Notwithstanding ~~paragraphs (1) and (2) of~~ subdivision (d) of Section 25214.3, as of January 1, 2012, ~~no~~ *a* person shall *not* manufacture, ship, sell, offer for sale, or offer for promotional purposes children's jewelry that contains any component or is made of any material that is more than 0.03 percent cadmium (300 parts per million) by weight. This subdivision shall not apply to any toy regulated for cadmium exposure under the federal Consumer Product Safety Improvement Act of 2008 ~~(Public Law~~ *(P.L.* 110-314).

(e) The department may establish a standard for children's jewelry or for a component of children's jewelry that is more protective of public health, of sensitive subpopulations, or of the environment than the standard established pursuant to subdivision (d).

SEC. 155. Section 25214.3 of the Health and Safety Code is amended to read:

25214.3. (a) Except as provided in Sections 25214.3.3 and 25214.3.4, a person who violates this article shall not be subject to criminal penalties imposed pursuant to this chapter and shall only be subject to the administrative or civil penalty specified in subdivision (b).

(b) (1) A person who violates this article shall be liable for an administrative or a civil penalty not to exceed two thousand five hundred dollars ($2,500) per day for each violation. That administrative or civil penalty may be assessed and recovered in an administrative action filed with the Office of Administrative

Hearings or in a civil action brought in any court of competent jurisdiction.

(2) In assessing the amount of an administrative or a civil penalty for a violation of this article, the presiding officer or the court, as applicable, shall consider all of the following:

(A) The nature and extent of the violation.

(B) The number of, and severity of, the violations.

(C) The economic effect of the penalty on the violator.

(D) Whether the violator took good faith measures to comply with this article and the time these measures were taken.

(E) The willfulness of the violator's misconduct.

(F) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.

(G) Any other factor that justice may require.

(c) Administrative and civil penalties collected pursuant to this article shall be deposited in the Toxic Substances Control Account, for expenditure by the department, upon appropriation by the Legislature, to implement and enforce this article, except as provided in Section 25192.

(d) (1) Notwithstanding subdivision (b), a party that is a signatory to the amended consent judgment, or a party that is a signatory to a consent judgment entered in the consolidated action entitled People ~~vs.~~ *v.* Burlington Coat Factory Warehouse Corporation, et al. (Alameda Superior Court Lead Case No. RG 04-162075) that contains identical or substantially identical terms as provided in Sections 2, 3, and 4 of the amended consent judgment, shall not be subject to enforcement pursuant to this article, and an action brought to enforce this article against the party shall be subject to Section 4 of the amended consent judgment.

(2) The Legislature finds and declares that the amendment of this subdivision by Chapter 575 of the Statutes of 2008 is declaratory of existing law.

(e) (1) For the purpose of administering and enforcing this article, an authorized representative of the department, upon obtaining consent or after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, may, upon presenting appropriate credentials and at a reasonable time, do ~~any~~ *either* of the following:

(A) Enter a factory, warehouse, or establishment where jewelry is manufactured, packed, held, or sold; enter a vehicle that is being used to transport, hold, or sell jewelry; or enter a place where jewelry is being held or sold.

(B) Inspect a factory, warehouse, establishment, vehicle, or place described in subparagraph (A), and all pertinent equipment, raw material, finished and unfinished materials, containers, and labeling in the factory, warehouse, establishment, vehicle, or place. In the case of a factory, warehouse, or establishment where jewelry is manufactured, packed, held, or sold, this inspection shall include any record, file, paper, process, control, and facility that has a bearing on whether the jewelry is being manufactured, packed, held, transported, sold, or offered for sale or for promotional purposes in violation of this article.

(2) (A) An authorized representative of the department may secure a sample of jewelry when taking an action authorized pursuant to this subdivision. If the representative obtains a sample prior to leaving the premises, he or she shall leave a receipt describing the sample obtained.

(B) The department shall return, upon request, a sample that is not destroyed during testing ~~when~~ *if* the department no longer has any purpose for retaining the sample.

(C) A sample that is secured in compliance with this section and found to be in compliance with this article that is destroyed during testing shall be subject to a claim for reimbursement.

(3) An authorized representative of the department shall have access to all records of a carrier in commerce relating to the movement in commerce of jewelry, or the holding of that jewelry during or after the movement, and the quantity, shipper, and consignee of the jewelry. A carrier shall not be subject to the other provisions of this article by reason of its receipt, carriage, holding, or delivery of jewelry in the usual course of business as a carrier.

(4) An authorized representative of the department shall be deemed to have received implied consent to enter a retail establishment, for purposes of this section, if the authorized representative enters the location of that retail establishment where the public is generally granted access.

SEC. 156. Section 25250.50 of the Health and Safety Code is amended to read:

25250.50. For purposes of this article, the following definitions shall apply:

(a) (1) "Advisory committee" means a committee of nine members appointed by the secretary on or before January 1, 2019, to consider and recommend approval or denial of an application for an extension of the requirements imposed pursuant to Section 25250.53.

(2) A person considered for appointment to the advisory committee shall disclose any financial interests the person may have in any aspect of the vehicle or vehicle parts manufacturing industry prior to appointment by the secretary or, in the case of subparagraph (C) of paragraph (3), prior to nomination.

(3) The advisory committee shall be composed of the following members:

(A) (i) One-third of the members shall be representatives of the manufacturers of brake friction materials and motor vehicles, to be appointed by the secretary in consultation with the chair of the board and the director of the department.

(ii) If the application for an extension of the requirements imposed pursuant to Section 25250.53 pertains solely to brake friction materials to be used on heavy-duty motor vehicles, the members appointed pursuant to this subparagraph shall represent the manufacturers of heavy-duty brake friction materials and heavy-duty motor vehicles.

(B) One-third of the members shall be representatives of municipal storm water quality agencies and nongovernmental environmental organizations, to be appointed by the secretary in consultation with the chair of the board and the director of the department.

(C) One-third of the members shall be experts in vehicle and braking safety, economics, and other relevant technical areas, to be appointed by the secretary, upon nomination by a majority of the members specified in subparagraph (A) concurrently with a majority of the members specified in subparagraph (B).

(4) For purposes of this subdivision, a "financial interest" shall have the same meaning as a financial interest described in Section 87103 of the Government Code, except only with regard to business entities, real property, or sources of income that are related to the vehicle or vehicle parts manufacturing industry.

(b) "Board" means the State Water Resources Control Board.

(c) "Department" means the Department of Toxic Substances Control.

(d) "Heavy-duty motor vehicle" means a motor vehicle of over 26,000 pounds gross weight.

(e) (1) "Manufacturer," except where otherwise specified, means both of the following:

(A) A manufacturer or assembler of motor vehicles or motor vehicle equipment.

(B) An importer of motor vehicles or motor vehicle equipment for resale.

(2) A manufacturer includes a vehicle brake friction materials manufacturer.

(f) "Motor vehicle" and "vehicle" ~~has~~ *have* the same meaning as the definition of "vehicle" in Section 670 of the Vehicle Code.

(g) "Testing certification agency" means a third-party testing certification agency that is utilized by a vehicle brake friction materials manufacturer and that has an accredited laboratory program that provides testing in accordance with the certification agency requirements that are approved by the department.

SEC. 157. Section 25250.54 of the Health and Safety Code is amended to read:

25250.54. (a) (1) On and after January 1, 2019, a manufacturer may apply to the department for a one-year, two-year, or three-year extension of the January 1, 2025, deadline established in Section 25250.53, except as provided in subdivision (h).

(2) An extension application submitted pursuant to this section shall be submitted based on vehicle model, class, platform, or other vehicle-based category, and not on the basis of the brake friction material formulation.

(3) The application shall be accompanied by documentation that will allow the advisory committee to make a recommendation pursuant to subdivisions (e) and (f).

(4) The documentation shall include a scientifically sound quantitative estimate of the quantity of copper that would be emitted if the extension is granted, including a description of the assumptions used in arriving at that estimate.

(b) No more than 30 days after receipt of an application for an extension pursuant to subdivision (a), the department shall do all of the following:

(1) Post a notice of receipt on the department's Internet Web site that includes the vehicle model, class, platform, or other vehicle-based category, whether the brake friction material is intended for use in original equipment or replacement parts, and the quantity of copper that would be emitted if the extension is granted.

(2) Consult with the board and the State Air Resources Board.

(3) Solicit comment from the public and from scientific and vehicle engineering experts on the availability of generally affordable compliant brake friction materials, their safety and performance characteristics, and the feasibility of brake pad copper emissions reduction through means other than friction material reformulation.

(c) (1) In consultation with the board, the department shall determine if sufficient documentation has been presented upon which to base a decision. If the department determines that further documentation is needed, it shall deliver a detailed request for further documentation to the applicant.

(2) Not later than 30 days after receipt of the application for an extension pursuant to subdivision (a), the department shall forward the application to the advisory committee for the purpose of the advisory committee making a recommendation pursuant to subdivisions (e) and (f).

(d) (1) In considering any application for an extension, the advisory committee shall consider all of the documentation supplied by the applicant pursuant to subdivision (a).

(2) The advisory committee may request, no later than 75 days after receipt of the application from the department pursuant to subdivision (c), further documentation from the applicant.

(3) The advisory committee shall hold at least one public hearing at which it shall accept and consider comments from the public on each category of application. The advisory committee meetings shall be open to the public and are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(e) (1) The advisory committee shall recommend to the secretary that the extension be approved if the advisory committee determines that there are no brake friction materials that are safe and available for individual or multiple vehicle models, classes,

platforms, or other vehicle-based categories identified in the application.

(2) The advisory committee shall recommend to the secretary that the extension not be approved if the advisory committee determines that alternative brake friction materials are safe and available for individual or multiple vehicle models, classes, platforms, or other vehicle-based categories identified in the application.

(3) For purposes of this section, "safe and available" shall mean all of the following:

(A) The brake system for which the alternative brake friction material is manufactured meets applicable federal safety standards, or if no federal standard exists, a widely accepted safety standard.

(B) Acceptable alternative brake friction materials are commercially available for the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(C) Adequate industry testing and production capacity exists to supply the alternative brake friction materials for use on the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(D) The alternative brake friction material is technically feasible for use on the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(E) The alternative brake friction materials meet customer performance expectations, including noise, wear, vibration, and durability for the individual or multiple ~~vehicle~~ *vehicles*, classes, platforms, or vehicle-based categories identified in the application.

(F) The alternative acceptable brake friction material is economically feasible with respect to the industry and the cost to the consumer for the individual or multiple vehicles, classes, platforms, or vehicle-based categories identified in the application.

(4) The advisory committee shall provide relevant data to the department and the board concerning the potential impacts of the extension on California watersheds for purposes of the report required pursuant to Section 25250.65.

(f) (1) No sooner than 60 days and no later than 120 days after the department solicits comments pursuant to paragraph (3) of subdivision (b), the advisory committee shall make a recommendation to the secretary in accordance with subdivisions

(d) and (e) as to whether the application for extension should be approved or not approved.

(2) The recommendation of the advisory committee that the secretary approve or not approve the application for extension shall be accompanied by documentation of the basis for the recommendation.

(g) (1) The secretary shall make available the recommendation of the advisory committee and the accompanying documentation for public review and comment for 60 days following receipt of the recommendation from the advisory committee.

(2) The secretary shall consider public comments on the advisory committee's recommendation and issue a final decision on the application for extension no later than 45 days after the conclusion of the 60-day comment period.

(3) In making the determination whether to approve or disapprove the extension, the secretary shall rely upon the recommendations made by the advisory committee pursuant to subdivision (f).

(4) If the secretary does not follow the recommendation of the advisory committee made pursuant to subdivision (f), he or she shall explain in writing the basis of his or her decision.

(h) (1) On or before December 31, 2029, a manufacturer with an approved extension of the January 1, 2025, deadline established in Section 25250.53, may reapply to the department for additional two-year extensions from the deadline in accordance with a schedule that may be established by the department.

(2) Except as provided in subdivision (i), a manufacturer may not apply on or after January 1, 2030, for an extension of the January 1, 2025, deadline established in Section 25250.53.

(3) The department shall comply with all of the requirements of this section when granting an additional extension of the January 1, 2025, deadline pursuant to this subdivision.

(i) (1) On and after January 1, 2030, a manufacturer of vehicle brake friction materials to be used on heavy-duty vehicles with an approved extension of the January 1, 2025, deadline established in Section 25250.53, may reapply to the department for additional two-year extensions from the deadline established in Section 25250.53, that results in an extension of that deadline to a date on and after January 1, 2032.

(2) The department shall comply with all of the requirements of this section when granting an additional extension of the January 1, 2025, deadline pursuant to this subdivision.

(j) The department shall assess a fee for each application for an extension sufficient to cover actual costs incurred in implementing this section. The department may expend the fees collected pursuant to this subdivision, upon appropriation by the Legislature, for reimbursement for the costs incurred in implementing this section.

(k) When granting an extension pursuant to this section, the department, board, advisory committee, and secretary shall comply with the requirements of Section 25358.2, to ensure the protection of trade secrets, as defined in Section 25358.2.

SEC. 158. Section 25250.56 of the Health and Safety Code is amended to read:

25250.56. (a) In developing new formulations to comply with Sections 25250.52 and 25250.53, a manufacturer of vehicle brake friction materials shall screen potential alternatives to the use of copper by using the ~~Toxic~~ *Toxics* Information Clearinghouse developed by the department and the Office of Environmental Health Hazard Assessment pursuant to Section 25256, for the purpose of identifying potential impacts of these potential alternatives on public health and the environment.

(b) In conducting the screening analysis required by subdivision (a), a manufacturer of vehicle brake friction materials shall, using information available to the manufacturer at the time of the analysis, including information from the department and other sources, consider the environmental fate of brake friction materials and their emissions through all phases of the brake friction material life cycle.

(c) A manufacturer of vehicle brake friction materials shall use the screening analysis required by subdivision (a) or an open source alternatives assessment to select alternatives to copper that pose less *of a* potential hazard to public health and the environment.

(d) Upon request by the department, a manufacturer of vehicle brake friction materials or importer of record shall provide a summary demonstrating how the screening analysis conducted pursuant to this section or an open source alternatives assessment is used to inform the selection of alternatives to copper that pose

less *of a* potential hazard to public health and the environment, as required by subdivision (c).

SEC. 159. Section 25996 of the Health and Safety Code is amended to read:

25996. Commencing January 1, 2015, a shelled egg ~~may~~ *shall* not be sold or contracted for sale for human consumption in California if it is the product of an egg-laying hen that was confined on a farm or place that is not in compliance with animal care standards set forth in Chapter 13.8 (commencing with Section 25990).

SEC. 160. Section 33331.4 of the Health and Safety Code is amended to read:

33331.4. (a) A redevelopment agency undertaking activities and funding involving property described in paragraph (3) of subdivision (c) of Section 33030 shall comply with all of the requirements of this part, except as specifically modified in subdivision (b).

(b) In addition to the requirements specified in subdivision (a), all of the following apply:

(1) The project shall include the replacement, on at least a one-to-one basis, of all existing public housing units. The replacement dwelling units shall be affordable to, and occupied by, extremely low, very low, and lower income households as defined in Sections 50079.5, 50105, and 50106, ~~respectively,~~ at the same or lower income level as the household displaced from the public housing units, for at least 55 years.

(2) The replacement dwelling units may be either publicly or privately owned and shall meet all of the following requirements:

(A) Be located either inside the project area, or within a five-mile radius of the parcel containing the public housing that is being replaced.

(B) Shall be, for each income level described in paragraph (1), a unit type and size as required by the displaced household. The required size shall conform to the principles for a public housing policy on occupancy, contained in the "Public Housing Occupancy Guidebook," published by the United States Department of Housing and Urban Development.

(C) Shall be affordable to each displaced household that chooses to relocate to a replacement unit, such that the rent does not exceed 30 percent of the income of that household.

(c) No household shall be displaced under this section unless ~~they are~~ *the household is* given priority for a permanent replacement dwelling unit created pursuant to this section at the initial time of relocation. This subdivision does not apply if the household, having been given priority for a replacement dwelling unit under this part, voluntarily chooses not to accept the replacement dwelling unit.

(d) The project may include both of the following:

(1) The development of additional privately owned housing units that will be available to and occupied by persons and families of low or moderate income, as defined in Section 50093, including very low income households, as defined in Section 50105, at an affordable housing cost, as defined in Section ~~50025.5~~ *50052.5*.

(2) Workforce market-rate housing units, retail services, commercial, industrial, educational, recreational, and other uses as may be appropriate to serve the residents of the area, and public improvements inside or adjacent to the project area.

SEC. 161. Section 33334.25 of the Health and Safety Code is amended to read:

33334.25. (a) The Legislature finds and declares all of the following:

(1) The transfer of funds to a joint powers authority and the use of pooled funds within the housing market area of the participating agencies for the purpose of providing affordable housing ~~is~~ *are* of benefit to the project area producing the tax increment.

(2) The cost and availability of land, geophysical and environmental limitations, community patterns, and the lack of financing make the availability of affordable housing more difficult in some communities.

(3) The cooperation of local agencies and the use of pooled funds will result in more resources than would otherwise be available for affordable housing.

(b) As used in this section, the following terms shall apply:

(1) “Housing funds” means funds in or from the low- and moderate-income housing fund established by an agency pursuant to Section 33334.3.

(2) “Joint powers authority” means a joint powers authority created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purposes of receiving and using housing funds pursuant to this section.

(3) "Receiving entity" means any person, partnership, joint venture, corporation, governmental body, or other organization receiving housing funds from a joint powers authority for the purpose of providing housing pursuant to this section.

(c) Notwithstanding any other provision of law, contiguous agencies located within adjoining cities within a single metropolitan statistical area (MSA) may, by agreement, create and participate in a joint powers authority for the purpose of pooling their housing funds for the direct costs of constructing, substantially rehabilitating, and preserving the affordability of housing units that are affordable to extremely low income households, as defined in Section 50106. Agencies may participate in the authority upon a finding based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation. Agencies may transfer a portion of their housing funds to a joint powers authority for use by the joint powers authority pursuant to this section. The joint powers authority may determine the kinds of housing projects or activities to be assisted, consistent with this section. The joint powers authority may loan, grant, or advance transferred housing funds from participating agencies to a receiving entity for any eligible housing development within the participating agency's jurisdiction, subject to the requirements of this section. In addition, the agreement may authorize the joint powers authority to issue bonds and to use the pooled funds to leverage other funds to assist eligible developments, including loans from private institutions and assistance provided by other governmental agencies.

(d) A mutually binding agreement between the joint powers authority and each participating agency shall contain the following terms and conditions:

(1) The community of each participating agency shall have adopted up-to-date housing elements pursuant to Article 10.6 (commencing with Section 65580) of Division 1 of Title 7 of the Government Code, and the housing elements have been determined to be in compliance with the law by the Department of Housing and Community Development.

(2) The community of each participating agency shall have met, in its current or previous housing element cycle, 50 percent or more of its share of the region's affordable housing needs, as defined in Section 65584 of the Government Code, in the very low

and lower income categories of income groups defined in Section ~~50025.5~~ *50052.5*.

(3) Each participating agency shall hold, at least 45 days prior to the transfer of funds to the joint powers authority, a public hearing, after providing notice pursuant to Section 6062 of the Government Code to solicit public comments on the draft agreement.

(4) No housing funds shall be transferred from a project area that has an indebtedness to its ~~low~~ *low-* and moderate-income housing fund pursuant to Section 33334.6.

(5) No housing funds shall be transferred from an agency that has not met its need for replacement housing pursuant to Section 33413, unless the agency has encumbered and contractually committed sufficient funds to meet those requirements.

(6) Pooled funds shall be used within the participating agencies' jurisdictions.

(7) The joint powers authority shall comply with this section.

(8) The joint powers authority shall ensure that the funds it receives are used in accordance with this section.

(9) Funds transferred by an agency to a joint powers authority pursuant to this section shall be expended or encumbered by the joint powers authority for the purposes of this section within two years of the transfer. Transferred funds not so expended or encumbered by the joint powers authority within two years after the transfer shall be returned to the original agency and shall be deemed excess surplus funds as provided in, and subject to, the requirements of Sections 33334.10 and 33334.12. Excess surplus funds held by an agency shall not be transferred to a joint powers authority.

(10) The joint powers authority shall prepare and submit an annual report to the department that documents the amount of housing funds received and expended or allocated for specific housing assistance activities consistent with Section 33080.4.

(e) A mutually binding contract between the joint powers authority and a receiving entity shall contain the following terms and conditions:

(1) Pooled housing funds shall be used only to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to extremely low income persons or households.

(2) Pooled housing funds shall not be used to pay for planning and administrative costs, offsite improvements associated with a housing project, or fees or exactions levied solely for development projects constructed, substantially rehabilitated, or preserved with pooled funds. The receiving entity shall be subject to the same replacement requirements provided in Section 33413 and any relocation requirements applicable pursuant to ~~Section 7260~~ *Chapter 16 (commencing with Section 7260) of Division 7 of Title 1* of the Government Code.

(3) The joint powers authority shall make findings, based on substantial evidence on the record, that each proposed use of pooled funds will not exacerbate racial or economic segregation.

(f) Pooled funds expended pursuant to this section shall be spent within the project area of a participating redevelopment agency.

(g) On or after January 1, 2020, no new joint project may be created pursuant to this section.

SEC. 162. Section 33420.1 of the Health and Safety Code is amended to read:

33420.1. Within a project area, for any project undertaken by an agency for building rehabilitation or alteration in construction, an agency may take those actions which the agency determines necessary and which ~~is~~ *are* consistent with local, state, and federal law, to provide for seismic retrofits as follows:

(a) For unreinforced masonry buildings, to meet the requirements of Chapter 1 of the Appendix of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(b) For any buildings that qualify as "historical property" under Section 37602, to meet the requirements of the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13).

(c) For buildings other than unreinforced masonry buildings and historical properties, to meet the requirements of the most current edition of the Uniform Building Code of the International Conference of Building Officials.

If an agency undertakes seismic retrofits and proposes to add new territory to the project area, to increase either the limitation on the number of dollars to be allocated to the redevelopment agency or the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2)

of *subdivision (a) of* Section 33333.2, to lengthen the period during which the redevelopment plan is effective, to merge project areas, or to add significant additional capital improvement projects, as determined by the agency, the agency shall amend its redevelopment plan and follow the same procedure, and the legislative body is subject to the same restrictions, as provided for in Article 4 (commencing with Section 33330) for the adoption of a plan.

SEC. 163. Section 33684 of the Health and Safety Code is amended to read:

33684. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan that contains the provisions required by Section 33670, meets any of the following:

(A) Was adopted on or after January 1, 1994, including later amendments to these redevelopment plans.

(B) Was adopted prior to January 1, 1994, but amended after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section.

(C) Was adopted prior to January 1, 1994, but amended after January 1, 1994, to increase the limitation on the number of dollars to be allocated to the agency or that increased, or eliminated, pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthened the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670.

(2) This section shall apply to passthrough payments, as required by Sections 33607.5 and 33607.7, for the 2003–04 to 2008–09, inclusive, fiscal years. For purposes of this section, a passthrough payment shall be considered the responsibility of an agency in the fiscal year the agency receives the tax increment revenue for which the passthrough payment is required.

(3) For purposes of this section, “local educational agency” is a school district, a community college district, or a county office of education.

(b) On or before October 1, 2008, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2003, and June 30, 2008, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7, and accumulated gross tax increments through June 30, 2003.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing agency under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of ~~Sections~~ *Section* 33607.5 and *Section* 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive ~~sum~~ *difference*.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive ~~sum~~ *difference*.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(9) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision

(c) and the dates on which the agency intends to make these payments.

(c) On or before October 1, 2009, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2008, and June 30, 2009, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing entity under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Sections 33607.5 and 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive ~~sum~~ *difference*.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive ~~sum~~ *difference*.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(d) If an agency reports pursuant to paragraph (6) of subdivision (b) or paragraph (6) of subdivision (c) that it has an outstanding passthrough payment obligation to any taxing entity, the agency

shall submit annual updates to the county auditor on October 1 of each year until such time as the county auditor notifies the agency in writing that the agency's outstanding payment obligations have been fully satisfied. The report shall contain both of the following:

(1) A list of payments to each taxing agency and to the Educational Revenue Augmentation Fund pursuant to subdivision (j) that the agency disbursed after the agency's last update filed pursuant to this subdivision or, if no update has been filed, after the agency's submission of the reports required pursuant to subdivisions (b) and (c). The list of payments shall include only those payments that address obligations identified pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c). The update shall specify the date on which each payment was disbursed.

(2) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the dates on which the agency intends to make these payments.

(e) The county auditor shall review each agency's reports submitted pursuant to subdivisions (b) and (c) and any other relevant information to determine whether the county auditor concurs with the information included in the reports.

(1) If the county auditor concurs with the information included in a report, the county auditor shall issue a finding of concurrence within 45 days.

(2) If the county auditor does not concur with the information included in a report or considers the report to be incomplete, the county auditor shall return the report to the agency within 45 days with information identifying the elements of the report with which the county auditor does not concur or considers to be incomplete. The county auditor shall provide the agency at least 15 days to respond to concerns raised by the county auditor regarding the information contained in the report. An agency may revise a report that has not received a finding of concurrence and resubmit it to the county auditor.

(3) If an agency and county auditor do not agree regarding the passthrough requirements of Sections 33607.5 and 33607.7, an agency may submit a report pursuant to subdivisions (b) and (c) and a statement of dispute identifying the issue needing resolution.

(4) An agency may amend a report for which the county auditor has issued a finding of concurrence and resubmit the report pursuant to paragraphs (1), (2), and (3) if any of the following apply:

(A) The county auditor and agency agree that an issue identified in the agency's statement of dispute has been resolved and the agency proposes to modify the sections of the report to conform with the resolution of the statement of dispute.

(B) The county auditor and agency agree that the amount of gross tax increment or the amount of a passthrough payment to a taxing entity included in the report is not accurate.

(5) The Controller may revoke a finding of concurrence and direct the agency to resubmit a report to the county auditor pursuant to paragraphs (1), (2), and (3) if the Controller finds significant errors in a report.

(f) On or before December 15, 2008, and annually thereafter through 2014, the county auditor shall submit a report to the Controller that includes all of the following:

(1) The name of each redevelopment project area in the county for which an agency must submit a report pursuant to subdivision (b) or (c) and information as to whether the county auditor has issued a finding of concurrence regarding the report.

(2) A list of the agencies for which the county auditor has issued a finding of concurrence for all project areas identified in paragraph (1).

(3) A list of agencies for which the county auditor has not issued a finding of concurrence for all project areas identified in paragraph (1).

(4) Using information applicable to agencies listed in paragraph (2), the county auditor shall report all of the following:

(A) The total sums reported by each redevelopment agency related to each taxing entity pursuant to paragraphs (1) to (7), inclusive, of subdivision (b) and, on or after December 15, 2009, pursuant to paragraphs (1) to (7), inclusive, of subdivision (c).

(B) The names of agencies that have outstanding passthrough payment obligations to a local educational agency that exceed the amount of outstanding passthrough payments to the local educational agency.

(C) Summary information regarding agencies' stated plans to pay the outstanding amounts identified in paragraph (6) of

subdivision (b) and paragraph (6) of subdivision (c) and the actual amounts that have been deposited into the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) All unresolved statements of dispute filed by agencies pursuant to paragraph (3) of subdivision (e) and the county auditor's analyses supporting the county auditor's conclusions regarding the issues under dispute.

(g) (1) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the Legislative Analyst's Office and the Department of Finance and provide a copy to the Board of Governors of the California Community Colleges. The report shall provide information as follows:

(A) Identify agencies for which the county auditor has issued a finding of concurrence for all reports required under subdivisions (b) and (c).

(B) Identify agencies for which the county auditor has not issued a finding of concurrence for all reports required pursuant to subdivision (b) and all reports required pursuant to subdivision (c) or for which a finding of concurrence has been withdrawn by the Controller.

(C) Summarize the information reported in paragraph (4) of subdivision (f). This summary shall identify, by local educational agency and by year, the total amount of passthrough payments that each local educational agency received, was entitled to receive, subordinated, or that has not yet been paid, and the portion of these amounts that are considered to be property taxes for purposes of Sections 2558, 42238, and 84751 of the Education Code. The report shall identify, by agency, the amounts that have been deposited to the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) Summarize the statements of dispute. The Controller shall specify the status of these disputes, including whether the Controller or other state entity has provided instructions as to how these disputes should be resolved.

(E) Identify agencies that have outstanding passthrough payment liabilities to a local educational agency that exceed the amount of outstanding passthrough overpayments to the local educational agency.

(2) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the State

Department of Education and the Board of Governors of the California Community Colleges. The report shall identify, by local educational agency and by year of receipt, the total amount of passthrough payments that the local educational agency received from redevelopment agencies listed in subparagraph (A) of paragraph (1).

(h) (1) On or before April 1, 2009, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code.

(B) Calculate for each county superintendent of schools for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on apportionments. After April 1, 2009, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(2) On or before April 1, 2010, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2008–09 fiscal year the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code.

(B) Calculate for each county superintendent of schools for the 2008–09 fiscal year the difference between 19 percent of the

amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on revenue limit apportionments. After April 1, 2010, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(3) For the purposes of Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of *Title 2 of* the Education Code, the amounts reported to each school district and county superintendent of schools in the notification required pursuant to subparagraph (C) of paragraph (1) and subparagraph (C) of paragraph (2) shall be deemed to be apportionment significant audit exceptions and the date of receipt of that notification shall be deemed to be the date of receipt of the final audit report that includes those audit exceptions.

(4) On or before March 1, 2009, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on apportionments. After March 1, 2009, however, the board shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(5) On or before March 1, 2010, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on revenue apportionments. After March 1, 2010, however, the board shall not notify a community college district if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(6) A community college district may submit documentation to the Board of Governors of the California Community Colleges showing that all or part of the amount reported to the district pursuant to subparagraph (B) of paragraph (4) and subparagraph (B) of paragraph (5) was previously reported to the California Community Colleges for the purpose of the revenue level calculations made pursuant to Section 84751 of the Education Code. Upon acceptance of the documentation, the board ~~of governors~~ shall adjust the amounts calculated in paragraphs (4) and (5) accordingly.

(7) The Board of Governors of the California Community Colleges shall make corrections in any amounts allocated in any fiscal year to each community college district for which any amount calculated in paragraphs (4) and (5) is nonzero so as to account for the changes reported pursuant to paragraph (4) of subdivision (b) and paragraph (4) of subdivision (c). The board may make the corrections over a period of time, not to exceed five years.

(i) (1) After February 1, 2009, for an agency listed on the most recent Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g), all of the following shall apply:

(A) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(B) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(C) The agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend funds to pay, if any, all of the following:

(i) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in subparagraph (B) whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460)~~ of this chapter~~.

(ii) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, local agencies, or a private entity.

(iii) Contractual obligations that, if breached, could subject the agency to damages or other liabilities or remedies.

(iv) Obligations incurred pursuant to Section 33445.

(v) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.

(vi) Obligations incurred pursuant to Section 33401.

(vii) An amount, to be expended for the monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency was first listed on the Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g).

(2) After February 1, 2009, an agency identified in subparagraph (B) or (E) of paragraph (1) of subdivision (g) shall incur interest charges on any passthrough payment that is made to a local educational agency more than 60 days after the close of the fiscal year in which the passthrough payment was required. Interest shall be charged at a rate equal to 150 percent of the current Pooled Money Investment Account earnings annual yield rate and shall be charged for the period beginning 60 days after the close of the fiscal year in which the passthrough payment was due through the date that the payment is made.

(3) The Controller, with the concurrence of the Director of Finance, may waive the provisions of paragraphs (1) and (2) for

a period of up to 12 months if the Controller determines all of the following:

(A) The county auditor has identified the agency in its most recent report issued pursuant to paragraph (2) of subdivision (f) as an agency for which the auditor has issued a finding of concurrence for all reports required pursuant to subdivisions (b) and (c).

(B) The agency has filed a statement of dispute on an issue or issues that, in the opinion of the Controller, are likely to be resolved in a manner consistent with the agency's position.

(C) The agency has made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund, or has had funds previously withheld by the auditor, in amounts that would satisfy the agency's passthrough payment requirements to local educational agencies if the issue or issues addressed in the statement of dispute were resolved in a manner consistent with the agency's position.

(D) The agency would sustain a fiscal hardship if it made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund in the amounts estimated by the county auditor.

(j) Notwithstanding any other provision of law, if an agency report submitted pursuant to subdivision (b) or (c) indicates outstanding payment obligations to a local educational agency, the agency shall make these outstanding payments as follows:

(1) Of the outstanding payments owed to school districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 43.3 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the school district or districts.

(2) Of the outstanding payments owed to community college districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 47.5 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the community college district or districts.

(3) Of the outstanding payments owed to county offices of education, including any interest payments pursuant to paragraph (2) of subdivision (i), 19 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the county office of education.

(k) (1) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

(2) Notwithstanding any other provision of law, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to subdivision (j) shall be distributed to a community college district.

(*l*) A county may require an agency to reimburse the county for any expenses incurred by the county in performing the services required by this section.

SEC. 164. Section 41999 of the Health and Safety Code is amended to read:

41999. (a) The state board shall develop and establish a grant program that provides incentives for dry cleaners in the state that utilize perchloroethylene in their operations to transition to utilizing dry cleaning systems determined by the state board, in consultation with the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, the Department of Toxic Substances Control, and any other entity the state board determines to be appropriate, to be nontoxic and nonsmog-forming.

(b) To be eligible for a grant pursuant to this section, applicants shall completely replace their ~~percholorethylene-based~~ *perchlorethylene-based* dry cleaning system with a system that the state board, in consultation with the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, the Department of Toxic Substances Control, and any other entity the state board determines to be appropriate, has determined to be nontoxic and nonsmog-forming. The state board shall determine the eligibility of grant recipients.

(c) The state board shall make grants available in the amount of ten thousand dollars ($10,000) to any eligible dry cleaning operation for the purchase of a professional dry cleaning system that uses a nontoxic and nonsmog-forming process, as determined by the state board, in consultation with the Office of Environmental

Health Hazard Assessment, the State Water Resources Control Board, the Department of Toxic Substances Control, and any other entity the state board determines to be appropriate.

(d) The state board shall ensure that at least 50 percent of the grant moneys provided pursuant to this section are awarded in a manner that directly reduces air contaminants or reduces the public health risk associated with air contaminants in communities with the most significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both.

(e) Commencing January 1, 2007, and every three years thereafter, the state board shall provide a report to the Legislature evaluating *the* effectiveness of the grant program.

(f) The state board shall establish a demonstration program to showcase professional nontoxic and ~~nonsmog forming~~ *nonsmog-forming* dry cleaning technologies in the state. The demonstration program shall require 50 percent matching funds to cover the costs of the demonstration program. Any entity may contribute ~~monies~~ *moneys* as matching funds, including, but not limited to, a state or federal agency, an air pollution control district or air quality management district, a public utility district, or a nonprofit entity. Not more than 30 percent of the funds deposited annually in the Nontoxic Dry Cleaning Incentive Trust Fund may be used for the demonstration program.

SEC. 165. Section 44272.3 of the Health and Safety Code is amended to read:

44272.3. (a) It is the ~~Legislature's~~ intent *of the Legislature* that, to the maximum extent feasible, loan moneys provided by the state to refiners of biofuels, also known as biorefiners, be awarded so as to increase the efficiency and environmental sustainability of biofuel production.

(b) In order to reduce the carbon intensity equivalent value of the fuel that biorefiners produce, biorefiners receiving loans from the commission's California Ethanol Producer Incentive Program, established under the authority of this chapter, shall meet all of the following requirements:

(1) Within six months of acceptance to the program, biorefiners shall submit a draft plan to the commission that details one or more projects that can be undertaken at the biorefinery that are designed

to achieve compliance with either of two biorefinery operational enhancement goals established by the commission.

(2) Within 12 months of acceptance to the program, biorefiners shall submit a detailed cost estimate for their target projects that can be undertaken at the biorefinery and that are designed to achieve compliance with the commission's enhancement goals.

(3) Within 24 months of acceptance to the program, biorefiners shall complete and obtain all of the necessary permits or negative declarations sufficient to allow the project to move forward with financing, major equipment purchases, and hiring if project approval is executed by the company's officers.

(4) Within 36 months of acceptance to the program, biorefiners shall obtain all of the necessary financing and initiate construction for their project associated with their elected enhancement goal pathway.

(5) Within 48 months of acceptance to the program, biorefiners shall complete all modifications to the facility and begin modified operations that achieve compliance with either of the enhancement goal pathways selected by the project applicant.

(c) This section does not limit the commission's ability to set more stringent guidelines for the California Ethanol Producer Incentive Program that further maximize the efficiency and environmental sustainability of biofuel production.

(d)This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 166. Section 44559.11 of the Health and Safety Code is amended to read:

44559.11. It is the intent of the Legislature to ensure that the state, through the authority, may make maximum, efficient use of capital access programs enacted by all federal and state agencies, as well as funding available from any governmental program whose goals may be advanced by providing funding to the Capital Access Loan Program. In furtherance of this intent, and ~~not withstanding~~ *notwithstanding* any other provision of this article, when the contributions required pursuant to subdivision (c) of Section 44559.4 are entirely funded by a source other than the authority, the authority may, by regulation adopted pursuant to subdivision (b) of Section 44520, establish alternate provisions as necessary

to enable the authority to participate in the alternative funding source program.

SEC. 167. Section 50843.5 of the Health and Safety Code is amended to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to cities, counties, city and counties, and charitable nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code that have created and are operating or will operate housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA).

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(2) The department shall set aside funding for new trusts, as defined by the department in the NOFA.

(b) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) Utilization of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) Receipt of ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.

(c) The minimum allocation to an applicant that is a newly established trust shall be five hundred thousand dollars ($500,000). The minimum allocation for all other trusts shall be one million dollars ($1,000,000). No applicant may receive an allocation in excess of two million dollars ($2,000,000). All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis with ~~money~~ *moneys* that ~~is~~ *are* not required by any state or federal law to be spent on housing. No application for an existing housing trust shall be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds. An application for a new trust shall not be considered unless the department has received adequate documentation, as determined by the department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new

trust has been enacted or the applicant has adopted a legally binding commitment to deposit matching funds into the new trust. Funds shall not be disbursed by the department to any trust until all matching funds are on deposit and then funds may be disbursed only in amounts necessary to fund projects identified to receive a loan from the trust within a reasonable period of time, as determined by the department. Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program or its successor. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

(d) (1) Funds shall be used for the predevelopment costs, acquisition, construction, or rehabilitation of the following types of housing or projects:

(A) Rental housing projects or units within rental housing projects. The affordability of all assisted units shall be restricted for not less than 55 years.

(B) Emergency shelters, safe havens, and transitional housing, as these terms are defined in Section 50801.

(C) ~~For sale~~ *For-sale* housing projects or units within for sale housing projects.

(2) At least 30 percent of the total amount of the grant and the match shall be expended on projects, units, or shelters that are affordable to, and restricted for, extremely ~~low-income persons and families~~ *low income households*, as defined in Section 50106. No more than 20 percent of the total amount of the grant and the match shall be expended on projects or units affordable to, and restricted for, moderate-income persons and families whose income does not exceed 120 percent of the area median income. The remaining funds shall be used for projects, units, or shelters that are affordable to, and restricted for, lower income ~~persons and families~~ *households*, as defined in Section 50079.5.

(3) If funds are used for the acquisition, construction, or rehabilitation of ~~for sale~~ *for-sale* housing projects or units within ~~for sale~~ *for-sale* housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the ~~for sale~~ *for-sale* housing units, unless it is in conflict with the requirements of another public funding source or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section ~~50025.5~~ *50052.5*, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity-sharing agreement. The grantee shall reuse the proceeds of the ~~equity sharing~~ *equity-sharing* agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(e) Loan repayments shall accrue to the grantee housing trust for use pursuant to this section. If the trust no longer exists, loan

repayments shall accrue to the department for use in the program or its successor.

(f) (1) In order for a city, county, or city and county to be eligible for funding, the applicant shall, at the time of application, meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(2) In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that, at the time of application, meet both of the following requirements:

(A) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(g) Recipients shall have held, or shall agree to hold, a public hearing or hearings to discuss and describe the project or projects that will be financed with funds provided pursuant to this section. As a condition of receiving a grant pursuant to this section, any nonprofit organization shall agree that it will hold one public meeting a year to discuss the criteria that will be used to select projects to be funded. That meeting shall be open to the public, and public notice of this meeting shall be provided, except to the extent that any similar meeting of a city or county would be permitted to be held in closed session.

(h) No more than 5 percent of the funds appropriated to the department for the purposes of this program shall be used to pay the costs of administration of this section.

(i) A local housing trust fund shall encumber funds provided pursuant to this section no later than 36 months after receipt. Any funds not encumbered within that period shall revert to the department for use in the program or its successor.

(j) Recipients shall be required to file periodic reports with the department regarding the use of funds provided pursuant to this section. No later than December 31 of each year in which funds are awarded by the program, the department shall provide a report to the Legislature regarding the number of trust funds created, a description of the projects supported, the number of units assisted, and the amount of matching funds received.

SEC. 168. Section 51058.5 of the Health and Safety Code is amended to read:

51058.5. Notwithstanding any other provision of law, the agency is not required to promulgate rules and regulations in order to establish or operate a mortgage refinance program. Instead, that program may be established by the governing board of the agency through resolutions adopted by that board, and operated by the agency in accordance with resolutions adopted by the board. Those resolutions shall be exempt from the requirements of the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 169. Section 102247 of the Health and Safety Code, as amended by Section 5 of Chapter 529 of the Statutes of 2010, is amended to read:

102247. (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues, including, but not limited to, all of the following:

(1) Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26801) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600) of Part 1 of Division 102 *of this code*.

(2) Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

(3) Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

(4) Any other funds collected by the State Registrar, except Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, Umbilical Cord Blood Collection Program Fund fees collected pursuant to Section ~~1628~~ *103625, and* fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, ~~and fees collected pursuant to Section 103645,~~ all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

(1) Registration and preservation of vital event records and dissemination of vital event information to the public.

(2) Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.

(3) Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 170. Section 102247 of the Health and Safety Code, as added by Section 6 of Chapter 529 of the Statutes of 2010, is amended to read:

102247. (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues, including, but not limited to, all of the following:

(1) Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26801) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600) of Part 1 of Division 102 *of this code*.

(2) Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

(3) Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

(4) Any other funds collected by the State Registrar, except Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code~~,~~ *and* fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code~~, and fees collected pursuant to Section 103645,~~ all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

(1) Registration and preservation of vital event records and dissemination of vital event information to the public.

(2) Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.

(3) Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

(e) This section shall become operative on January 1, 2018.

SEC. 171. Section 103605 of the Health and Safety Code, as amended by Section 7 of Chapter 529 of the Statutes of 2010, is amended to read:

103605. (a) The ~~money~~ *moneys* collected by the State Registrar shall be deposited with the Treasurer for credit to the Health Statistics Special Fund, except for the Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, the Umbilical Cord Blood Collection Program Fund fees collected pursuant to Section ~~1628~~ *103625, and* the fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, ~~and the fees collected pursuant to Section 103645,~~ all of which shall be deposited in the General Fund.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 172. Section 103605 of the Health and Safety Code, as added by Section 8 of Chapter 529 of the Statutes of 2010, is amended to read:

103605. (a) The ~~money~~ *moneys* collected by the State Registrar shall be deposited with the Treasurer for credit to the Health Statistics Special Fund, except for the Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code~~,~~ *and* the fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, ~~and the fees collected pursuant to Section 103645,~~ all of which shall be deposited in the General Fund.

(b) This section shall become operative on January 1, 2018.

SEC. 173. Section 103625 of the Health and Safety Code, as amended by Section 9 of Chapter 529 of the Statutes of 2010, is amended to read:

103625. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) (1) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of nine dollars ($9) shall be

paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any nine-dollar ($9) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code. Two dollars ($2) of any nine-dollar ($9) fee is exempt from subdivision (e) and shall be paid to the Umbilical Cord Blood Collection Program Fund in conformity with Section 1628.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars ($3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three

dollars ($3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous

calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(*l*) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section ~~114~~ *100430*.

(m) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

(n) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 174. Section 103625 of the Health and Safety Code, as added by Section 10 of Chapter 529 of the Statutes of 2010, is amended to read:

103625. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) (1) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven-dollar ($7) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars ($3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars ($3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(*l*) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section ~~114~~ *100430*.

(m) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

(n) This section shall become operative on January 1, 2018.

SEC. 175. Section 115113 of the Health and Safety Code is amended to read:

115113. (a) Except for an event that results from patient movement or interference, a facility shall report to the department an event in which the administration of radiation results in ~~and~~ *any* of the following:

(1) Repeating of a CT examination, unless otherwise ordered by a physician or a radiologist, if the following dose values are exceeded:

(A) 0.05Sv (5 rem) effective dose equivalent.

(B) 0.5 Sv (50 rem) to an organ or tissue.

(C) 0.5 Sv (50 rem) shallow dose equivalent to the skin.

(2) CT X-ray irradiation of a body part other than that intended by the ordering physician or a radiologist if one of the following dose values are exceeded:

(A) 0.05 Sv (5 rem) effective dose equivalent.

(B) 0.5 Sv (50 rem) to an organ or tissue.

(C) 0.5 Sv (50 rem) shallow dose equivalent to the skin.

(3) CT or therapeutic exposure that results in unanticipated permanent functional damage to an organ or a physiological system, hair loss, or erythema, as determined by a qualified physician.

(4) A CT or therapeutic dose to an embryo or fetus that is greater than 50 mSv (5 rem) dose equivalent, that is a result of radiation to a known pregnant individual unless the dose to the embryo or fetus was specifically approved, in advance, by a qualified physician.

(5) Therapeutic ionizing irradiation of the wrong individual, or wrong treatment site.

(6) The total dose from therapeutic ionizing radiation delivered differs from the prescribed dose by 20 percent or more. A report shall not be required pursuant to this paragraph in any instance where the dose administered exceeds 20 percent of the amount prescribed in a situation where the radiation was utilized for palliative care for the specific patient. The radiation oncologist shall notify the referring physician that the dose was exceeded.

(b) The facility shall, no later than five business days after discovery of an event described in subdivision (a), provide notification of the event to the department and the referring

physician of the person subject to the event and shall, no later than 15 business days after discovery of an event described in subdivision (a) provide written notification to the person who is subject to the event.

(c) The information required pursuant to this section shall include, but not be limited to, information regarding each substantiated adverse event, as defined in Section 1279.1, reported to the department, and may include compliance information history.

SEC. 176. Section 120335 of the Health and Safety Code, as amended by Section 2 of Chapter 434 of the Statutes of 2010, is amended to read:

120335. (a) As used in this chapter, ~~but excluding Section 120380, and as used in Sections 120400, 120405, 120410, and 120415, the term~~ "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1) Diphtheria.

(2) Haemophilus influenzae type b.

(3) Measles.

(4) Mumps.

(5) Pertussis (whooping cough).

(6) Poliomyelitis.

(7) Rubella.

(8) Tetanus.

(9) Hepatitis B.

(10) Varicella (chickenpox).

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Commencing July 1, 2011, notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority admits or advances any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) Commencing July 1, 2011, the governing authority shall not unconditionally admit or advance any pupil to the 7th through 12th grade levels, inclusive, of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

(e) The department may specify the immunizing agents ~~which~~ *that* may be utilized and the manner in which immunizations are administered.

(f) This section shall become inoperative on June 30, 2012, and as of January 1, 2013, is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

(g) The department may adopt emergency regulations to implement subdivisions (c) and (d), including, but not limited to, requirements for documentation and immunization status reports, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

SEC. 177. Section 120335 of the Health and Safety Code, as added by Section 3 of Chapter 434 of the Statutes of 2010, is amended to read:

120335. (a) As used in this chapter, ~~but excluding Section 120380, and as used in Sections 120400, 120405, 120410, and 120415, the term~~ "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1) Diphtheria.

(2) Haemophilus influenzae type b.

(3) Measles.

(4) Mumps.

(5) Pertussis (whooping cough).

(6) Poliomyelitis.

(7) Rubella.

(8) Tetanus.

(9) Hepatitis B.

(10) Varicella (chickenpox).

(11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c) Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

(d) The governing authority shall not unconditionally admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupil's age.

(e) The department may specify the immunizing agents ~~which~~ *that* may be utilized and the manner in which immunizations are administered.

(f) This section shall become operative on July 1, 2012.

SEC. 178. Section 120955 of the Health and Safety Code is amended to read:

120955. (a) (1) To the extent that state and federal funds are appropriated in the annual Budget Act for these purposes, the director shall establish and may administer a program to provide

drug treatments to persons infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immunodeficiency syndrome (AIDS). If the director makes a formal determination that, in any fiscal year, funds appropriated for the program will be insufficient to provide all of those drug treatments to existing eligible persons for the fiscal year and that a suspension of the implementation of the program is necessary, the director may suspend eligibility determinations and enrollment in the program for the period of time necessary to meet the needs of existing eligible persons in the program.

(2) The director, in consultation with the AIDS Drug Assistance Program Medical Advisory Committee, shall develop, maintain, and update as necessary a list of drugs to be provided under this program. The list shall be exempt from the requirements of the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law. In addition, the director shall notify the fiscal and policy committees of the Legislature of any additions, deletions, or restrictions to the list within 15 business days of the action. At a minimum, this notification shall describe the specific change to the formulary, the reason for the action taken, the estimated number of people it may affect, and any estimate of costs or savings where applicable.

(b) The director may grant funds to a county public health department through standard agreements to administer this program in that county. To maximize the recipients' access to drugs covered by this program, the director shall urge the county health department in counties granted these funds to decentralize distribution of the drugs to the recipients.

(c) The director shall establish a rate structure for reimbursement for the cost of each drug included in the program. Rates shall not be less than the actual cost of the drug. However, the director may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug.

(d) Manufacturers of the drugs on the list shall pay the department a rebate equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security

Act (42 U.S.C. Sec. 1396r-8(c)) plus an additional rebate to be negotiated by each manufacturer with the department, except that no rebates shall be paid to the department under this section on drugs for which the department has received a rebate under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)) or that have been purchased on behalf of county health departments or other eligible entities at discount prices made available under Section 256b of Title 42 of the United States Code.

(e) The department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by subdivision (d).

(f) Drugs may be removed from the list for failure to pay the rebate required by subdivision (d), unless the department determines that removal of the drug from the list would cause substantial medical hardship to beneficiaries.

(g) The department may adopt emergency regulations to implement amendments to this chapter made during the 1997–98 Regular Session, in accordance with the Administrative Procedure Act~~, Chapter~~ *(Chapter* 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government ~~Code~~ *Code)*. The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days.

(h) Reimbursement under this chapter shall not be made for any drugs that are available to the recipient under any other private, state, or federal programs, or under any other contractual or legal entitlements, except that the director may authorize an exemption from this subdivision where exemption would represent a cost savings to the state.

(i) The department may also subsidize certain cost-sharing requirements for persons otherwise eligible for the AIDS Drug Assistance Program (ADAP) with existing non-ADAP drug coverage by paying for prescription drugs included on the ADAP formulary within the existing ADAP operational structure up to, but not exceeding, the amount of that cost-sharing obligation. This cost sharing may only be applied in circumstances in which the

other payer recognizes the ADAP payment as counting toward the individual's cost-sharing obligation.

SEC. 179. Section 121025 of the Health and Safety Code is amended to read:

121025. (a) Public health records relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, shall be confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.

(b) In accordance with subdivision ~~(f)~~ *(g)* of Section 121022, a state or local public health agency, or an agent of that agency, may disclose personally identifying information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the state or local public health agency.

(c) Except as provided in paragraphs (1) to (3), inclusive, any disclosure authorized by subdivision (a) or (b) shall include only the information necessary for the purpose of that disclosure and shall be made only upon agreement that the information will be kept confidential and will not be further disclosed without written authorization, as described in subdivision (a).

(1) Notwithstanding any other provision of law, the following disclosures shall be authorized for the purpose of enhancing completeness of HIV/AIDS, tuberculosis, and sexually transmitted disease coinfection reporting to the federal Centers for Disease Control and Prevention (CDC):

(A) The local public health agency HIV surveillance staff may further disclose the information to the health care provider who provides HIV care to the HIV-positive person who is the subject of the record for the purpose of assisting in compliance with subdivision (a) of Section 121022.

(B) Local public health agency tuberculosis control staff may further disclose the information to state public health agency

tuberculosis control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent the information is requested by the CDC and permitted by subdivision (b), for purposes of the investigation, control, or surveillance of HIV and tuberculosis coinfections.

(C) Local public health agency sexually transmitted disease control staff may further disclose the information to state public health agency sexually transmitted disease control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent it is requested by the CDC, and permitted by subdivision (b), for the purposes of the investigation, control, or surveillance of HIV and syphilis, gonorrhea, or chlamydia coinfection.

(2) Notwithstanding any other provision of law, the following disclosures shall be authorized for the purpose of facilitating appropriate HIV/AIDS medical care and treatment:

(A) State public health agency HIV surveillance staff, AIDS Drug Assistance Program staff, and care services staff may further disclose the information to local public health agency staff, who may further disclose the information to the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(B) AIDS Drug Assistance Program staff and care services staff in the State Department of Public Health may further disclose the information directly to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(3) Notwithstanding any other provision of law, for the purpose of facilitating appropriate medical care and treatment of persons coinfected with HIV, tuberculosis, and syphilis, gonorrhea, or chlamydia, local public health agency sexually transmitted disease control and tuberculosis control staff may further disclose the information to state or local public health agency sexually transmitted disease control and tuberculosis control staff, the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV, tuberculosis, and sexually transmitted disease care.

(4) For the purposes of paragraphs (2) ~~and(3)~~ *and (3)*, "staff" does not include nongovernmental entities.

(d) No confidential public health record, as defined in subdivision (c) of Section 121035, shall be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e) (1) ~~Any~~ *A* person who negligently discloses the content of ~~any~~ *a* confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed five thousand dollars ($5,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose record was disclosed.

(2) Any person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than five thousand dollars ($5,000) and not more than twenty-five thousand dollars ($25,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(3) Any person who willfully, maliciously, or negligently discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to any third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by imprisonment in ~~the~~ *a* county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars ($25,000), or both, plus court costs, as determined by the court, which penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(4) Any person who commits any act described in paragraph (1), (2), or (3), shall be liable to the person whose confidential public health record was disclosed for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.

(5) Each violation of this section is a separate and actionable offense.

(6) Nothing in this section limits or expands the right of an injured person whose confidential public health record was disclosed to recover damages under any other applicable law.

(f) In the event that a confidential public health record, as defined in subdivision (c) of Section 121035, is disclosed, the information shall not be used to determine employability, or insurability of any person.

SEC. 180. Section 124982 of the Health and Safety Code is amended to read:

124982. (a) The department shall issue a temporary genetic counselor license to a person to practice as a licensed genetic counselor who meets all of the following:

(1) The requirements for licensure set forth in subdivision (b) of Section 124981, except passing the certification examination as required by paragraph (2) of subdivision (b) of Section 124981.

(2) Either of the following requirements:

(A) The person meets the requirements to apply for and has applied for the first available certification examination offered. The department may require an applicant for a temporary genetic counselor license to provide documentation of acceptance for the examination.

(B) The person meets the requirements to apply for the certification examination and plans to apply to sit for the examination in the year following the year of the first available examination. The department shall require the applicant to provide documentation showing registration for the examination, when the documentation is received by the applicant. After the applicant takes the ~~exam~~ *examination*, the department shall require the applicant to provide documentation showing that the applicant took the examination.

(3) Payment of a fee of two hundred dollars ($200).

(b) A temporary genetic counselor license shall be valid for 24 months and shall not be extended or renewed.

(c) Notwithstanding subdivision (a), a temporary license issued pursuant to this section shall expire upon any of the following events, whichever occurs earlier:

(1) The issuance of a license pursuant to Section 124981.

(2) Thirty days after notification of the department that an applicant has failed the certification examination.

(3) The expiration date on the temporary license.

(d) A person holding a temporary genetic counselor license issued pursuant to this section, shall be required to work under the supervision of a licensed genetic counselor or a licensed physician and surgeon.

(e) The department may revoke the temporary license of a genetic counselor licensed pursuant to this section if the person has been convicted of a felony charge that is substantially related to the qualifications, functions, or duties of a genetic counselor. A plea of guilty or nolo contendere to a felony charge shall be deemed a conviction for the purposes of this subdivision.

(f) This section shall become operative on July 1, 2011.

SEC. 181. Section 557.5 of the Insurance Code is amended to read:

557.5. No peace officer, member of the ~~Department of the~~ California Highway Patrol, or firefighter shall be required to report any accident in which he or she is involved while operating an authorized emergency vehicle, as defined in subdivision (a), (b), or (f) of Section 165 of the Vehicle Code, or any employer-leased or employer-rented vehicle in the performance of his or her duty during the hours of his or her employment, to any person who has issued that peace officer, member of the ~~Department of the~~ California Highway Patrol, or firefighter a private automobile insurance policy.

As used in this section:

(a) "Peace officer" means every person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(b) "Policy" shall have the same meaning as defined in subdivision (a) of Section 660.

SEC. 182. Section 787.1 of the Insurance Code is amended to read:

787.1. (a) The following definitions apply to this section:

(1) "Senior designation" means any degree, title, credential, certificate, certification, accreditation, or approval, that expresses or implies that a broker or agent possesses expertise, training, competence, honesty, or reliability with regard to advising seniors in particular on finance, insurance, or risk management.

(2) "Use" means utilizing a word, phrase, acronym, or logo, in any oral or written communication from which a sale of insurance to a senior may directly or indirectly result, that states or suggests, alone or in context, that a broker or agent holds a senior designation.

(b) (1) A broker or agent may not use a senior designation unless all of the following conditions have been met:

(A) The broker or agent has been granted the right to use the senior designation by the organization that issues the senior designation, and the broker or agent is currently authorized by the organization to use the designation.

(B) The senior designation has been approved by the commissioner for use by brokers and agents in the sale of insurance to seniors.

(C) The broker or agent has been licensed for at least four years in any state or United States territory to sell the types of insurance with which the designation is used.

(2) A broker or agent may not use a senior designation in a manner that misleads a person as to the significance of the senior designation. Each time a broker or agent uses a senior designation in a writing, the writing shall also contain the words "California" or "CA" next to "Insurance Agent" or "Insurance Broker Agent" and "License," and these words shall be located immediately prior to the broker's license number or the agent's license number, in type that is in the same font and at least the same size as the type used for the senior designation. The requirements set forth in this subdivision are in addition to the requirements of Section 1725.5 and shall apply regardless of whether the broker or agent is an insurance agent, as defined in Section 1621. For purposes of this paragraph, "writing" means business cards, written price quotations, and print advertisements distributed exclusively in this state.

(c) The commissioner shall approve a senior designation only if the organization that issues the designation satisfies all of the following requirements with respect to the designation:

(1) The organization has applied for approval on a form prescribed by the commissioner.

(A) The department may require the filing of any supplementary documents and declarations it deems necessary to determine whether the prerequisites for approval have been met.

(B) Before or after approval, an organization shall notify the department in writing within 45 days following any material change in information recorded on the application form or in declarations or documents submitted along with it or in response to a department request.

(2) The designation is accredited by the National Commission for Certifying Agencies, or the organization or the designation is accredited by an agency that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and it is established to the satisfaction of the commissioner that the agency is qualified to accredit an organization or designation involved with financial services provided to seniors.

(3) The organization requires California candidates for the designation to demonstrate superior expertise in advising seniors in particular in finance, insurance, or risk management by passing examinations that are based on applicants with no prior insurance education or experience completing at least 75 hours of study covering at least the following topics: aspects of aging, health care coverage, long-term care insurance, financial planning for retirement, investments, estate planning, and ethics. Textbooks or other study materials may use chapter and subchapter titles that differ from those general topics as long as the essential content is the same. No part of the examinations, textbooks, or other study materials may concern techniques on how to increase the amount of insurance or financial products one sells, ~~nor~~ *or* recommend the selling of products offered by specific companies.

(d) (1) In determining whether to approve a senior designation for use in the sale of insurance to seniors, the commissioner shall also ensure that the organization that issues the senior designation fulfills the following:

(A) Is exclusively an educational or certification organization, and is not directly or indirectly, through an affiliate or partner, involved in selling insurance, nor receives any compensation directly or indirectly from any sale of insurance, other than the receipt of charitable gifts by a nonprofit institution.

(B) Maintains standards and procedures for disciplining its designees for improper or unethical conduct, as established by proven complaints or by disciplinary action by a government licensing agency or a quasi-governmental licensing and regulatory

organization. The standards and procedures shall include, at a minimum:

(i) A written procedure to receive, log, and conduct a preliminary review of complaints alleging improper, illegal, or unethical conduct.

(ii) Written standards for determining when a complaint warrants further investigation into the merits of the allegations contained therein.

(iii) Written standards and procedures to ensure that, once a complaint is determined to warrant further investigation, the investigation is diligently conducted.

(iv) Written standards for determining when to file disciplinary charges based on the results of an investigation.

(v) Written standards and procedures to ensure due process in the adjudication of disciplinary charges by adjudicators who are fair, knowledgeable, and otherwise qualified.

(vi) Written standards and procedures for the imposition of appropriate sanctions, including, when warranted, revocation of the designation.

(C) Maintains a code of ethics for its California designees consistent with that of one of the designations recited in Section 1749.4.

(e) (1) A word, phrase, acronym, or logo shall be deemed a senior designation if it contains the word “senior,” “Medicare,” “Medi-Cal,” “retire,” “mature,” “gerontology,” or “elder,” or any variation or synonym of one of these words within several words of the word “certified,” “chartered,” “registered,” “adviser,” “specialist,” “consultant,” “agent,” “broker,” “insurance,” “planner,” “professional,” “enrolled,” “accredited,” “analyst,” or “fellow,” or any variation or synonym of one of these words. A word, phrase, acronym, or logo may constitute a senior designation if it meets the definition in paragraph (1) of subdivision (a) regardless of whether it contains one of the words recited in this subdivision.

(2) A word, phrase, acronym, or logo shall not constitute a senior designation if it is a job title or description of an employee of a governmental entity, or of an organization with a contract with that governmental entity to provide free counseling to seniors.

(3) No exemption exists under this section for use of a senior designation that constitutes a job title or description or part of a job title or description, except as provided in paragraph (2).

(4) An advanced academic degree, such as a Ph.D., M.B.A., or M.S., may be used without compliance with subdivision (d), if the degree was awarded by an institution of higher education that has been accredited by an organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes."

(f) A violation of subdivision (b) by a broker or agent shall be grounds for suspension or revocation of the broker's or agent's license pursuant to Sections 1668 and 1738. Such a violation also shall be grounds for a cease and desist order and monetary penalty pursuant to Section 12921.8, as if the broker or agent had acted in a capacity for which a license was required but not possessed.

(g) Any person who grants to a California resident the right to use a senior designation that has not been approved by the commissioner, without reasonably attempting to determine whether California is one of the designee's residences, shall be subject to a cease and desist order and monetary penalty pursuant to Section 12921.8, as if the person had acted in a capacity for which a license was required but not possessed.

(h) The disciplinary and remedial authority recited in this subdivision shall be in addition to any other disciplinary and remedial authority included in this code.

(i) Notwithstanding any other provision of this code, the criteria in Sections 1668 and 1668.5 apply to an organization that issues a senior designation, and the commissioner may deny or rescind approval of an organization issuing a senior designation based on that criteria.

(j) The commissioner shall maintain a list of senior designations approved pursuant to subdivisions (c), (d), and (e) and shall publish the current list on the Internet Web site of the Department of Insurance.

(k) This section shall apply to all types of insurance, including those listed in paragraphs (1) and (2) of subdivision (c) of Section 785, except those listed in paragraphs (3) to (7), inclusive, and paragraph (9) of subdivision (c) of Section 785 and subdivision (d) of Section 785.

(*l*) The commissioner may, upon receipt of a petition from an organization, issue written confirmation that a designation issued by that organization is exempt from the requirement of approval pursuant to this section. The commissioner may issue confirmation if the designation, according to its title or curriculum, or in its actual use, concerns almost exclusively subject matters other than insurance or financial services sold to seniors in particular.

(m) (1) The commissioner may rescind approval of a designation whenever there has been a material change in the management or operation of the organization that issues the designation, or in the procedures or criteria for issuance of the designation, such that if the organization were to apply for approval of the designation subsequent to the change, approval would be denied.

(2) Any rescission of the approval of a designation shall be after notice and a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as if the approval were a license, and the commissioner shall have all of the powers granted therein.

SEC. 183. Section 1063.75 of the Insurance Code is amended to read:

1063.75. Any bonds issued to provide funds for covered claim obligations for workers' compensation claims shall be issued prior to January 1, 2013, in an aggregate principal amount outstanding at any one time not to exceed ~~$1.5 billion~~ *one billion five hundred million dollars ($1,500,000,000)*, and any bonds issued or issued to refund bonds shall not have a final maturity exceeding 20 years from the date of issuance. The bonds shall be issued at the request of CIGA, shall be in the form, shall bear the date or dates, and shall mature at the time or times as the indenture authorized by the request may provide. The bonds may be issued in one or more series, as serial bonds or as term bonds, or as a combination thereof, and, notwithstanding any other provision of law, the amount of principal of, or interest on, bonds maturing at each date of maturity need not be equal. The bonds shall bear interest at the rate or rates, variable or fixed or a combination thereof, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place or places within or without the state, be subject to the terms of redemption, contain the terms and

conditions, and be secured by the covenants as the indenture may provide. The indenture may provide for the proceeds of the bonds and funds securing the bonds to be invested in any securities and investments, including investment agreements, as specified therein. CIGA may enter into or authorize any ancillary obligations or derivative agreements as it determines necessary or desirable to manage interest rate risk or security features related to the bonds. The bonds shall be sold at public or private sale by the Treasurer at, above, or below the principal amount thereof, on the terms and conditions and for the consideration in the medium of payment that the Treasurer shall determine prior to the sale.

SEC. 184. Section 10112.2 of the Insurance Code is amended to read:

10112.2. To the extent required under federal law, a group or individual health insurance policy issued, amended, renewed, or delivered on or after September 23, 2010, shall comply with Section 2713 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-13), *as added by Section 1001 of the federal Patient Protection and Affordable Care Act (P.L. 111-148)*, and any rules or regulations issued under that section.

SEC. 185. Section 10112.3 of the Insurance Code is amended to read:

10112.3. (a) For purposes of this section, the following definitions shall apply:

(1) "Exchange" means the California Health Benefit Exchange established in Title 22 (commencing with Section 100500) of the Government Code.

(2) "Federal act" means the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 ~~(Public Law~~ *(P.L.* 111-152), and any amendments to, or regulations or guidance issued under, those acts.

(3) "Qualified health plan" has the same *meaning* as that term is defined in Section 1301 of the federal act.

(4) "Small employer" has the same meaning as that term is defined in Section 10700.

(b) Health insurers participating in the Exchange shall fairly and affirmatively offer, market, and sell in the Exchange at least one product within each of the five levels of coverage contained in subdivisions (d) and (e) of Section 1302 of the federal act. The

board established under Section 100500 of the Government Code may require insurers to sell additional products within each of those levels of coverage. This subdivision shall not apply to an insurer that solely offers supplemental coverage in the Exchange under paragraph (10) of subdivision (a) of Section 100504 of the Government Code.

(c) (1) Health insurers participating in the Exchange that sell any products outside the Exchange shall do both of the following:

(A) Fairly and affirmatively offer, market, and sell all products made available to individuals in the Exchange to individuals purchasing coverage outside the Exchange.

(B) Fairly and affirmatively offer, market, and sell all products made available to small employers in the Exchange to small employers purchasing coverage outside the Exchange.

(2) For purposes of this subdivision, "product" does not include contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 between the Managed Risk Medical Insurance Board and health insurers for enrolled Healthy Families beneficiaries or to contracts entered into pursuant to Chapter 7 (commencing with Section 14000) of, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and health insurers for enrolled Medi-Cal beneficiaries.

(d) Commencing January 1, 2014, a health insurer, with respect to policies that cover hospital, medical, or surgical benefits, may only sell the five levels of coverage contained in subdivisions (d) and (e) of Section 1302 of the federal act, except that a health insurer that does not participate in the Exchange may, with respect to policies that cover hospital, medical, or surgical benefits only sell the four levels of coverage contained in subdivision (d) of Section 1302 of the federal act.

(e) Commencing January 1, 2014, a health insurer that does not participate in the Exchange shall, with respect to policies that cover hospital, medical, or surgical expenses, offer at least one standardized product that has been designated by the Exchange in each of the four levels of coverage contained in subdivision (d) of Section 1302 of the federal act. This subdivision shall only apply if the board of the Exchange exercises its authority under subdivision (c) of Section 100504 of the Government Code. Nothing in this subdivision shall require an insurer that does not

participate in the Exchange to offer standardized products in the small employer market if the insurer only sells products in the individual market. Nothing in this subdivision shall require an insurer that does not participate in the Exchange to offer standardized products in the individual market if the insurer only sells products in the small employer market. This subdivision shall not be construed to prohibit the insurer from offering other products provided that it complies with subdivision (d).

SEC. 186. Section 10112.4 of the Insurance Code is amended to read:

10112.4. The commissioner shall, in coordination with the Director of the Department of Managed Health Care, review the Internet portal developed by the United States Secretary of Health and Human Services under subdivision (a) of Section 1103 of the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148) and paragraph (5) of subdivision (c) of Section 1311 of that act, and any enhancements to that portal expected to be implemented by the secretary on or before January 1, 2015. The review shall examine whether the Internet portal provides sufficient information regarding all health benefit products offered by health care service plans and health insurers in the individual and small employer markets in California to facilitate fair and affirmative marketing of all individual and small employer products, particularly outside the *California* Health Benefit Exchange created under Title 22 (commencing with Section 100500) of the Government Code. If the commissioner and the Director of the Department of Managed Health Care jointly determine that the Internet portal does not adequately achieve those purposes, they shall jointly develop and maintain an electronic clearinghouse to achieve those purposes. In performing this function, the commissioner and the Director of the Department of Managed Health Care shall routinely monitor individual and small employer benefit filings with, and complaints submitted by individuals and small employers to, their respective departments, and shall use any other available means to maintain the clearinghouse.

SEC. 187. Section 10113.95 of the Insurance Code is amended to read:

10113.95. (a) A health insurer that issues, renews, or amends individual health insurance policies shall be subject to this section.

(b) An insurer subject to this section shall have written policies, procedures, or underwriting guidelines establishing the criteria and process whereby the insurer makes its decision to provide or to deny coverage to individuals applying for coverage and sets the rate for that coverage. These guidelines, policies, or procedures shall ~~assure~~ *ensure* that the plan rating and underwriting criteria comply with Sections 10140 and 10291.5 and all other applicable provisions.

(c) On or before June 1, 2006, and annually thereafter, every insurer shall file with the commissioner a general description of the criteria, policies, procedures, or guidelines that the insurer uses for rating and underwriting decisions related to individual health insurance policies, which means automatic declinable health conditions, health conditions that may lead to a coverage decline, height and weight standards, health history, health care utilization, lifestyle, or behavior that might result in a decline for coverage or severely limit the health insurance products for which ~~they~~ *individuals applying for coverage* would be eligible. An insurer may comply with this section by submitting to the department underwriting materials or resource guides provided to agents and brokers, provided that those materials include the information required to be submitted by this section.

(d) Commencing January 1, 2011, the commissioner shall post on the department's Internet Web site, in a manner accessible and understandable to consumers, general, noncompany specific information about rating and underwriting criteria and practices in the individual market and information about the California Major Risk Medical Insurance Program (Part 6.5 (commencing with Section ~~12700)~~ *12700))* and the federal temporary high risk pool established pursuant to Part 6.6 (commencing with Section 12739.5)~~ of Division 2~~. The commissioner shall develop the information for the Internet Web site in consultation with the Department of Managed Health Care to enhance the consistency of information provided to consumers. Information about individual health insurance shall also include the following notification:

"Please examine your options carefully before declining group coverage or continuation coverage, such as COBRA, that may be available to you. You should be aware that companies selling individual health insurance typically require a review of your

medical history that could result in a higher premium or you could be denied coverage entirely."

(e) Nothing in this section shall authorize public disclosure of company-specific rating and underwriting criteria and practices submitted to the commissioner.

(f) This section shall not apply to a closed block of business, as defined in Section 10176.10.

SEC. 188. Section 10120.3 of the Insurance Code is amended to read:

10120.3. (a) With respect to a contract between an insurer covering dental services and a dentist to provide covered dental services to insureds, the contract shall not require a dentist to accept an amount set by the insurer as payment for dental care services provided to an insured that are not covered services under the insured's policy. This subdivision shall only apply to provider contracts issued, amended, or renewed on or after January 1, 2011.

(b) A provider shall not charge more for dental services that are not covered services under a health insurance policy than his or her usual and customary rate for those services. The department shall not be required to enforce this subdivision.

(c) The evidence of coverage and disclosure form, or combined evidence of coverage and disclosure form, for every health insurance policy covering dental services, or specialized health insurance policy covering dental services, that is issued, amended, or renewed on or after July 1, 2011, shall include the following statement:

IMPORTANT: If you opt to receive dental services that are not covered services under this policy, a participating dental provider may charge you his or her usual and customary rate for those services. Prior to providing a patient with dental services that are not a covered benefit, the dentist should provide to the patient a treatment plan that includes each anticipated service to be provided and the estimated cost of each service. If you would like more information about dental coverage options, you may call member services at [insert appropriate telephone number] or your insurance broker. To fully understand your coverage, you may wish to carefully review this evidence of coverage document.

(d) For purposes of this section, "covered services" or "covered dental services" means dental care services for which the insurer is obligated to pay~~,~~ pursuant to an insured's policy, or for which the insurer would be obligated to pay pursuant to an insured's policy but for the application of contractual limitations such as deductibles, copayments, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, or alternative benefit payments.

SEC. 189. Section 10181 of the Insurance Code is amended to read:

10181. For purposes of this article, the following definitions shall apply:

(a) "Large group health insurance policy" means a group health insurance policy other than a policy issued to a small employer, as defined in Section 10700.

(b) "Small group health insurance policy" means a group health insurance policy issued to a small employer, as defined in Section 10700.

(c) "PPACA" means Section 2794 of the federal Public Health Service Act (42 U.S.C. Sec.~~300gg-14)~~ *300gg-94)*, as amended by the federal Patient Protection and Affordable Care Act ~~(P. L. 111-48)~~ *(P.L. 111-148)*, and any subsequent rules, regulations, or guidance issued pursuant to that law.

(d) "Unreasonable rate increase" has the same meaning as that term is defined in PPACA.

SEC. 190. Section 10713 of the Insurance Code is amended to read:

10713. All health benefit plans written, issued, or administered by carriers on or after the effective date of this chapter, and all health benefit plans in force on or after the effective date of this chapter shall be renewable with respect to all eligible employees or dependents at the option of the policyholder, contractholder, or small employer except as follows:

(a) (1) For nonpayment of the required premiums by the policyholder, contractholder, or small employer, if the policyholder, contractholder, or small employer has been duly notified and billed for the charge and at least a 30-day grace period has elapsed since the date of notification or, if longer, the period of time required for notice and any other requirements pursuant to Section 2703, 2712, or 2742 of the federal Public Health Service Act (42 U.S.C.

Secs. 300gg-2, 300gg-12, and 300gg-42) and any subsequent rules or regulations has elapsed.

(2) An insurer shall continue to provide coverage as required by the policyholder's, contractholder's, or small employer's policy during the period described in paragraph (1). Nothing in this section shall be construed to affect or impair the policyholder's, contractholder's, small employer's, or insurer's other rights and responsibilities pursuant to the subscriber contract.

(b) If the insurer demonstrates fraud or an intentional misrepresentation of material fact under the terms of the policy by the policyholder, contractholder, or small employer or, with respect to coverage of individual enrollees, the enrollees or their representative.

(c) Violation of a material contract provision relating to employer contribution or group participation rates by the policyholder, contractholder, or small employer.

(d) When the carrier ceases to write, issue, or administer new small employer health benefit plans in this state, provided, however, that the following conditions are satisfied:

(1) Notice of the decision to cease writing, issuing, or administering new or existing small employer health benefits plans in this state is provided to the commissioner, and to either the policyholder, contractholder, or small employer at least 180 days prior to the discontinuation of the coverage.

(2) Small employer health benefit plans subject to this chapter shall not be canceled for 180 days after the date of the notice required under paragraph (1). For that business of a carrier that remains in force, any carrier that ceases to write, issue, or administer new health benefit plans shall continue to be governed by this chapter.

(3) Except in the case where a certification has been approved pursuant to subdivision ~~(1)~~ *(l)* of Section 10705 or the commissioner has made a determination pursuant to subdivision (a) of Section 10712, a carrier that ceases to write, issue, or administer new health benefit plans to small employers in this state after the passage of this chapter shall be prohibited from writing, issuing, or administering new health benefit plans to small employers in this state for a period of five years from the date of notice to the commissioner.

(e) When a carrier withdraws a benefit plan design from the small employer market, provided that the carrier notifies all affected policyholders, contractholders, or small employers and the commissioner at least 90 days prior to the discontinuation of those contracts, and that the carrier makes available to the small employer all small employer benefit plan designs which it markets and satisfies the requirements of paragraph (3) of subdivision (b) of Section 10714.

(f) If coverage is made available through a bona fide association pursuant to subdivision (w) of Section 10700 or a guaranteed association pursuant to subdivision (y) of Section 10700, the membership of the employer or the individual, respectively, ceases, but only if that coverage is terminated under this subdivision uniformly without regard to any health status-related factor of covered individuals.

SEC. 191. Section 10959 of the Insurance Code is amended to read:

10959. (a) All health benefit plans offered to a child or on behalf of a child to a responsible party for a child shall conform to the requirements of Section 10127.18, *10273.4, and* 12682.1, ~~and 10273.4,~~ and shall be renewable at the option of the child or responsible party for a child on behalf of the child except as permitted to be canceled, rescinded, or not renewed pursuant to Section 10273.4.

(b) Any carrier that ceases to offer for sale new individual health benefit plans pursuant to Section 10273.4 shall continue to be governed by this chapter with respect to business conducted under this chapter.

(c) Except as authorized under Section 10958, a carrier that as of the effective date of this chapter does not write new health benefit plans for children in this state or that after the effective date of this chapter ceases to write new health benefit plans for children in this state shall be prohibited from offering for sale new individual health benefit plans or in this state for a period of five years from the date of notice to the commissioner.

SEC. 192. Section 10960 of the Insurance Code is amended to read:

10960. On or before July 1, 2011, the commissioner may issue guidance to health plans regarding compliance with this chapter and such guidance shall not be subject to the Administrative

Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government ~~Code~~ *Code)*. The guidance shall only be effective until the commissioner and the Director of the Department of Managed Health Care adopt joint regulations pursuant to the Administrative Procedure Act.

SEC. 193. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, *or* certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business.

Number of documents	Amount of required minimum net worth
Less than 50,000	$ 75,000
50,000 to 100,000	120,000
100,000 to 500,000	200,000
500,000 to 1,000,000	300,000
1,000,000 or more	400,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to that asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of the plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which that plant is currently maintained, less $1/10$th thereof for each succeeding year or part of the succeeding year that the plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and ~~(1)~~ *(A)* the owner of the plant continues regularly to obtain and index title record data to the plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of the data, or ~~(2)~~ *(B)* the owner of the plant is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided the owner is contractually entitled to receive a copy of the title record data contained in the jointly used title plant system during the period of the owner's participation therein, either periodically or upon termination of that participation, at a cost not to exceed the actual cost of duplication of the title record data.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making the regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) An underwritten title company shall obtain from the commissioner a license to transact its business. The license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance

Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

The license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred fifty-four dollars ($354). The license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a two hundred seven dollar ($207) fee for each additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include the additional county or counties.

(4) (A) An underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March ~~31st~~ *31* or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any audit required by this paragraph may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within the extended time that the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). The audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

(B) The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant whose certification or license is in good standing at the time of the preparation. The fee for filing the audit shall be three hundred thirteen dollars ($313).

(C) The commissioner may refuse to accept an audit or order a new audit for any of the following reasons:

(i) Adverse result in any proceeding before the California Board of Accountancy affecting the auditor's license.

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors that would prevent his or her reports on the company from being reasonably objective.

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his or her activities as an accountant.

(iv) Judgment adverse to the auditor in any civil action finding him or her guilty of fraud, deceit, or misrepresentation in the practice of his or her profession.

Any company that fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred eighteen dollars ($118) and on failure to pay that or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) An underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) It shall maintain record of all receipts and disbursements of escrow funds.

(2) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall immediately make a special deposit of that amount in the State Treasury and that deposit shall be subject to Sections 12353, 12356, 12357, and 12358 and, as long as there are no claims against the deposit, all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. The deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release the deposits prior to the passage of the four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the

four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in the distribution over other claims against the depositor.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All of these examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with ~~any of the provisions~~ *a provision* of this section, the commissioner shall make his or her order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating the commissioner's order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1, is guilty of a misdemeanor, and may have ~~its~~ *the* license revoked by the commissioner. Any person aiding and abetting any company in a violation of the commissioner's order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out these purposes, the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an application for a change of name shall be one hundred eighteen dollars ($118). Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

The rules and regulations shall be adopted, amended, or repealed in accordance with the procedure provided in Chapter 3.5 (commencing with Section ~~11350)~~ *11340)* of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 194. Section 12739.53 of the Insurance Code is amended to read:

12739.53. (a) The board shall, consistent with Section 1101 of the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148) and ~~State~~ *state* and federal law and contingent on the agreement of the federal Department of Health and Human Services and receipt of sufficient federal funding, enter into an agreement with the federal Department of Health and Human Services to administer the federal temporary high risk pool in California.

(b) If the federal Department of Health and Human Services and the state enter into an agreement to administer the federal temporary high risk pool, the board shall do all of the following:

(1) Administer the program pursuant to that agreement.

(2) Begin providing coverage in the program on the date established pursuant to the agreement with the federal Department of Health and Human Services.

(3) Establish the scope and content of high risk medical coverage.

(4) Determine reasonable minimum standards for participating health plans, third-party administrators, and other contractors.

(5) Determine the time, manner, method, and procedures for withdrawing program approval from a plan, third-party administrator, or other contractor, or limiting enrollment of subscribers in a plan.

(6) Research and assess the needs of persons without adequate health coverage and promote means of ensuring the availability of adequate health care services.

(7) Administer the program to ensure the following:

(A) That the program subsidy amount does not exceed amounts transferred to the fund pursuant to this part.

(B) That the aggregate amount spent for high risk medical coverage and program administration does not exceed the federal funds available to the state for this purpose and that no state funds are spent for the purposes of this part.

(8) Maintain enrollment and expenditures to ensure that expenditures do not exceed amounts available in the fund and that no state funds are spent for purposes of this part. If sufficient funds are not available to cover the estimated cost of program expenditures, the board shall institute appropriate measures to limit enrollment.

(9) In adopting benefit and eligibility standards, be guided by the needs and welfare of persons unable to secure adequate health coverage for themselves and their dependents and by prevailing practices among private health plans.

(10) As required by the federal Department of Health and Human Services, implement procedures to provide for the transition of subscribers into qualified health plans offered through an exchange or exchanges to be established pursuant to the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148).

(11) Post on the board's Internet Web site the monthly progress reports submitted to the federal Department of Health and Human Services. In addition, the board shall provide notice of any anticipated waiting lists or disenrollments due to insufficient funding to the public, by making that notice available as part of its board meetings, and concurrently to the Legislature.

(12) Develop and implement a plan for marketing and outreach.

(c) There shall not be any liability in a private capacity on the part of the board or any member of the board, or any officer or employee of the board for or on account of any act performed or obligation entered into in an official capacity, when done in good faith, without intent to defraud, and in connection with the administration, management, or conduct of this part or affairs related to this part.

SEC. 195. Section 1509 of the Labor Code is amended to read:

1509. For purposes of this part, the following terms have the following meanings:

(a) "Employee" and "employee benefits" have the same meanings set forth in Section ~~1500~~ *1501*.

(b) "Employer" means any person, partnership, corporation, association, or other business entity that employs 15 or more employees.

SEC. 196. Section 1695 of the Labor Code is amended to read:

1695. (a) Every licensee shall do all of the following:

(1) Carry his or her license and proof of registration issued pursuant to paragraph (8) with him or her at all times and exhibit the same to all persons with whom he or she intends to deal in his or her capacity as a farm labor contractor prior to so dealing.

(2) File at the United States Post Office serving the address of the licensee, as noted on the face of his or her license, with the office of the Labor Commissioner, and with the agricultural commissioner of the county or counties in which the labor contractor has contracted with a grower, a correct change of address immediately upon each occasion the licensee permanently moves his or her address. The address shall also be the mailing address for purposes of notice required by the Labor Code or by any other applicable statute or regulations respecting service by mail.

(3) Promptly when due, pay or distribute to the individuals entitled thereto, all moneys or other things of value entrusted to the licensee by any third person for this purpose.

(4) Comply on his or her part with the terms and provisions of all legal and valid agreements and contracts entered into between licensee in his or her capacity as a farm labor contractor and third persons.

(5) Have available for inspection by his or her employees and by the grower with whom he or she has contracted, a written statement in English and Spanish showing the rate of compensation he or she receives from the grower and the rate of compensation he or she is paying to his or her employees for services rendered to, for, or under the control of the grower.

(6) Take out a policy of insurance with any insurance carrier authorized to do business in the State of California in an amount satisfactory to the commissioner, which insures the licensee against liability for damage to persons or property arising out of the licensee's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with his or her business, activities, or operations as a farm labor contractor.

(7) Have displayed prominently at the site where the work is to be performed and on all vehicles used by the licensee for the transportation of employees, the rate of compensation the licensee is paying to his or her employees for their services, printed in both English and Spanish and in lettering of a size to be prescribed by the Department of Industrial Relations.

(8) Register annually with the agricultural commissioner of the county or counties in which the labor contractor has contracted with a grower.

(9) Provide information and training on applicable laws and regulations governing worker safety, including the requirements of Article 10.5 (commencing with Section 12980) of Chapter 2 of Division 7 of the Food and ~~Agriculture~~ *Agricultural* Code, or regulating the terms and conditions of agricultural employment, to each crew leader, ~~foreman~~ *foreperson*, or other employee whose duties include the supervision, direction, or control of any agricultural worker on behalf of a licensee, or pursuant to, a contract or agreement for agricultural services entered into with a licensee.

(b) The board of supervisors of a county may establish fees to be charged each licensee for the recovery of the actual costs incurred by commissioners in the administration of registrations and change of address and the issuance of proofs of registration.

SEC. 197. Section 1771.3 of the Labor Code is amended to read:

1771.3. (a) (1) The State Public Works Enforcement Fund is hereby created as a special fund in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the fund shall be continuously appropriated for the purposes *of* the Department of Industrial Relations' enforcement of prevailing wage requirements applicable to public works pursuant to this chapter, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55, and shall not be used or borrowed for any other purpose.

(2) The Director of Industrial Relations, with the approval of the Director of Finance, shall determine and assess a fee on any awarding body using funds derived from any bond issued by the state to fund public works projects, in an amount not to exceed one-fourth of 1 percent of the bond proceeds. The fee shall be set to cover the expenses of the Department of Industrial Relations for administering the prevailing wage requirements on public works projects using those bond funds. The fee shall be payable by the board, commission, department, agency, or official responsible for the allocation of bond proceeds from the bond funds awarded to each project at the time the funds are released to the project or other such time the Department of Industrial Relations and the

entity responsible for allocation of the bond proceeds may agree. All fees collected pursuant to this section shall be deposited in the State Public Works Enforcement Fund, and shall be used only for enforcement of prevailing wage requirements on projects using bond funds and other projects for which awarding bodies pay into the fund. The administration and enforcement of prevailing wage requirements is an administrative expense associated with public works construction.

(b) The fee imposed by this section shall not apply to any contract awarded prior to the effective date of regulations adopted by the department pursuant to paragraph (2) of subdivision (b) of Section 1771.55.

(c) The department shall report to the Legislature, not later than March 1, 2011, on its administration of the State Public Works Enforcement Fund, and the prevailing wage enforcement activities undertaken by the department utilizing that funding.

SEC. 198. Section 987.58 of the Military and Veterans Code is amended to read:

987.58. (a) If a veteran dies after filing an application for purchase of a farm or a home, and the veteran's eligibility and qualifications are subsequently approved, the veteran's surviving spouse may, in the discretion of the department, succeed to the veteran's rights under the application, and may succeed to the veteran's rights, privileges, and benefits under this article. The contract of purchase which the department otherwise would have made with the deceased veteran may be made with the surviving spouse.

(b) If a person was a member of the ~~armed forces~~ *Armed Forces* on active military duty, entered active duty while in the State of California and lived in this state for six months immediately preceding entry into active duty, and was killed in the line of duty while on active duty or died after discharge from active duty from injuries incurred in the line of duty while on active duty, that person is a veteran for purposes of this article, and his or her unremarried surviving spouse may file an application, is entitled to the same rights, privileges, and benefits for which the ~~armed forces~~ *Armed Forces* member would have been eligible, and may contract with the department pursuant to subdivision (a). In making a determination of eligibility under this subdivision, the department may base its determination on documentation furnished to the

surviving spouse by the United States Department of Veterans Affairs specifying the cause of death of the ~~armed forces~~ *Armed Forces* member.

(c) If a member of the ~~armed forces~~ *Armed Forces* entered active military duty while in the State of California, lived in this state for six months or more immediately preceding entry into active duty, and is being held as a prisoner of war or has been designated by the ~~armed forces~~ *Armed Forces* as missing in action, that person is a veteran for purposes of this article, and his or her spouse may file an application, is entitled to the same rights, privileges, and benefits, and may contract with the department pursuant to subdivision (a).

SEC. 199. Section 166 of the Penal Code is amended to read:

166. (a) Except as provided in subdivisions (b), (c), and (d), every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:

(1) Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in the immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due to its authority.

(2) Behavior as specified in paragraph (1) committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.

(3) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.

(4) Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by any court, including orders pending trial.

(5) Resistance willfully offered by any person to the lawful order or process of any court.

(6) The contumacious and unlawful refusal of any person to be sworn as a witness or, when so sworn, the like refusal to answer any material question.

(7) The publication of a false or grossly inaccurate report of the proceedings of any court.

(8) Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of the court, any affidavit or testimony or representation of any kind, verbal or

written, in aggravation or mitigation of the punishment to be imposed upon the prisoner, except as provided in this code.

(9) Willful disobedience of the terms of any injunction that restrains the activities of a criminal street gang or any of its members, lawfully issued by any court, including an order pending trial.

(b) (1) Any person who is guilty of contempt of court under paragraph (4) of subdivision (a) by willfully contacting a victim by telephone or mail, or directly, and who has been previously convicted of a violation of Section 646.9 shall be punished by imprisonment in a county jail for not more than one year, by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.

(2) For the purposes of sentencing under this subdivision, each contact shall constitute a separate violation of this subdivision.

(3) The present incarceration of a person who makes contact with a victim in violation of paragraph (1) is not a defense to a violation of this subdivision.

(c) (1) Notwithstanding paragraph (4) of subdivision (a), any willful and knowing violation of any protective order or stay-away court order issued pursuant to Section 136.2, in a pending criminal proceeding involving domestic violence, as defined in Section 13700, or issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence, as defined in Section 13700, or elder or dependent adult abuse, as defined in Section 368, or that is an order described in paragraph (3), shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) If a violation of paragraph (1) results in a physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(3) Paragraphs (1) and (2) apply to the following court orders:

(A) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(B) An order excluding one party from the family dwelling or from the dwelling of the other.

(C) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the orders described in paragraph (1).

(4) A second or subsequent conviction for a violation of any order described in paragraph (1) occurring within seven years of a prior conviction for a violation of any of those orders and involving an act of violence or "a credible threat" of violence, as provided in subdivisions (c) and (d) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months or two or three years.

(5) The prosecuting agency of each county shall have the primary responsibility for the enforcement of the orders described in paragraph (1).

(d) (1) A person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Section 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of subdivision (g) of Section 12021.

(2) A person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(e) (1) If probation is granted upon conviction of a violation of subdivision (c), the court shall impose probation consistent with Section 1203.097 ~~of the Penal Code~~.

(2) If probation is granted upon conviction of a violation of subdivision (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(B) That the defendant provide restitution to reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(3) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision or subdivision (c), the court shall make a determination of the defendant's ability to pay. In no event shall

any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support.

(4) If the injury to a married person is caused, in whole or in part, by the criminal acts of his or her spouse in violation of subdivision (c), the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents required by this subdivision, until all separate property of the offending spouse is exhausted.

(5) Any person violating any order described in subdivision (c) may be punished for any substantive offenses described under Section 136.1 or 646.9. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1 or 646.9. However, any person held in contempt for a violation of subdivision (c) shall be entitled to credit for any punishment imposed as a result of that violation against any sentence imposed upon conviction of an offense described in Section 136.1 or 646.9. Any conviction or acquittal for any substantive offense under Section 136.1 or 646.9 shall be a bar to a subsequent punishment for contempt arising out of the same act.

SEC. 200. Section 171d of the Penal Code, as amended by Section 47 of Chapter 178 of the Statutes of 2010, is amended to read:

171d. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by that officer to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, the Governor or a member of his or her immediate family or a person acting with his or her permission with respect to the Governor's Mansion or any other residence of the Governor, any other constitutional officer or a member of his or her immediate

family or a person acting with his or her permission with respect to the officer's residence, or a Member of the Legislature or a member of his or her immediate family or a person acting with his or her permission with respect to the Member's residence, shall be punished by imprisonment in a county jail for not more than one year, by *a* fine of not more than one thousand dollars ($1,000), or by both the fine and imprisonment, or by imprisonment in the state prison, if he or she does any of the following:

(a) Brings a loaded firearm into, or possesses a loaded firearm within, the Governor's Mansion, or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

(b) Brings a loaded firearm upon, or possesses a loaded firearm upon, the grounds of the Governor's Mansion or any other residence of the Governor, the residence of any other constitutional officer, or the residence of any Member of the Legislature.

SEC. 201. Section 326.3 of the Penal Code is amended to read:

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the State of California.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and

that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with ~~the requirements of~~ this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, *23701l, or* 23701w~~, or 23701*l*~~ of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (*l*) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote caller bingo in accordance with the requirements of subdivision (b):

Sec. _.01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec. _.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County, or City and County] pursuant to the provisions of Sections

326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec. _.03. Qualified Applicants: Applicants for Licensure.

(a) The following organizations are qualified to apply to the License Official for a license to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701*l*, or 23701w of the Revenue and Taxation Code.

(2) A mobile home park association of a mobile home park that is situated in the [City, County, or City and County].

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

(b) The application shall be in a form prescribed by the License Official and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the [Governing Body of the City, County, or City and County] from time to time. The following documentation shall be attached to the application, as applicable:

(1) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701*l*, or 23701w of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the License Official may refer to the Franchise Tax Board's Internet Web site to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.

(2) Other evidence as the License Official determines is necessary to verify that the applicant is a duly organized mobile home park association of a mobile home park situated in the [City, County, or City and County].

Sec. _.04. License Application: Verification.

The license shall not be issued until the License Official has verified the facts stated in the application and determined that the applicant is qualified.

Sec. _.05. Annual Licenses.

A license issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the license shall expire. A

new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The [Governing Body of the City, County, or City and County] expressly reserves the right to amend or repeal this chapter at any time by resolution. If this chapter is repealed, all licenses issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing resolution.

Sec. _.06. Conditions of Licensure.

(a) Any license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions.

(b) Each license issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.

(2) The licensed organization is responsible for ensuring that the conditions of this chapter and Sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's license. At the request of the organization, the [Governing Body of the City, County, or City and County] shall hold a public hearing before revoking any license issued pursuant to this chapter.

(2) Nothing in this section shall require a city, county, or city and county to use this model ordinance in order to authorize remote caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (m), except that fees paid under those agreements shall not be determined as

a percentage of receipts or other revenues from, or be dependant on the outcome of, the game.

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game. A violation of any provision of this section, other than subdivision (d), is a misdemeanor.

(f) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(g) No minors shall be allowed to participate in any remote caller bingo game.

(h) A remote caller bingo game shall not include any site that is not located within this state.

(i) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization. Nothing in this subdivision shall be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(j) (1) All remote caller bingo games shall be open to the public, not just to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor of California or the President of the United States declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single venue if the net proceeds of the game, after deduction of prizes and overhead expenses, are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives the California Gambling Control Commission at least 10 days' written notice of the intent to conduct that game.

(4) An organization authorized to conduct remote caller bingo games shall provide the commission with at least 30 days' advance

written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for any city, county, or city and county in which the game will be played. The commission shall post the ordinance on its Internet Web site.

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other ~~provisions~~ *provision* of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities

obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(*l*) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, "overhead costs" includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). For the purpose of keeping its overhead costs below 20 percent of gross sales, an authorized organization may elect to deduct all or a portion of the fees paid to financial institutions for the use and processing of credit card sales from the amount of gross revenues awarded for prizes. In that case, the redirected fees for the use and processing of credit card sales shall not be included in "overhead costs" as defined in the California Remote Caller Bingo Act. Additionally, fees paid to financial institutions for the use and processing of credit card sales shall not be deducted from the proceeds retained by the charitable organization.

(n) No person shall be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, provided *that* the game shall have not more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than two days per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the commission, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. When an authorized organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use and processing of credit card sales. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding

state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(q) (1) The California Gambling Control Commission shall regulate remote caller bingo, including, but not limited to, licensure and operation. The commission shall establish reasonable criteria regulating, and shall require the licensure of, the following:

(A) Any person who conducts a remote caller bingo game pursuant to this section, including, but not limited to, an employee, a person having fiduciary responsibility for a remote caller bingo game, a site manager, and a bingo caller.

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization.

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) The Department of Justice shall conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval shall be accompanied by a nonrefundable fee, the amount of which shall be adopted by the commission by regulation.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars ($500,000) to fund operating, personnel, and other startup costs incurred by the commission relating to this act. Funds from the California Bingo Fund shall be available to the commission upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission may assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(s) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(t) (1) All equipment used for remote caller bingo shall be approved in advance by the California Gambling Control Commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(u) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be

played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the commission, provided that the controls shall be deemed approved by the commission after 90 days from the date of submission unless disapproved.

(v) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(w) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the California Gambling Control Commission within 120 days after the close of the vendor's fiscal year. In addition, the California Gambling Control Commission may audit the books and records of the vendor at any time.

(2) An authorized organization that conducts remote caller bingo games shall provide copies of the records pertaining to those games to the California Gambling Control Commission within 30 days after the end of each calendar quarter. In addition, those records shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the California Gambling Control Commission within 120 days after the close of the organization's fiscal year. The audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales by the authorized organization and the amount of fees for the use and processing of credit card sales redirected from "overhead costs" and deducted from the amount of gross revenues awarded for prizes.

(3) The costs of the licensing and audits required by this section shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The commission may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If, during an audit, the commission identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(5) No audit required to be conducted by the commission shall commence before January 1, 2010.

(x) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (u), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(y) The commission shall submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(z) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 202. Section 330.1 of the Penal Code is amended to read:

330.1. (a) Every person who manufactures, owns, stores, keeps, possesses, sells, rents, leases, lets on shares, lends or gives away, transports, or exposes for sale or lease, or offers to sell, rent, lease, let on shares, lend or give away or who permits the operation of or permits to be placed, maintained, used, or kept in any room, space, or building owned, leased, or occupied by him or her or under his or her management or control, any slot machine or device as hereinafter defined, and every person who makes or permits to be made with any person any agreement with reference to any slot

machine or device as hereinafter defined, pursuant to which agreement the user thereof, as a result of any element of hazard or chance, may become entitled to receive anything of value or additional chance or right to use that slot machine or device, or to receive any check, slug, token, or memorandum, whether of value or otherwise, entitling the holder to receive anything of value, is guilty of a misdemeanor.

(b) A first violation of this section shall be punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(c) A second offense shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(d) A third or subsequent offense shall be punishable by a fine of not less than ten thousand dollars ($10,000) nor more than twenty-five thousand dollars ($25,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) If the offense involved more than one machine or more than one location, an additional fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) shall be imposed per machine and per location.

(f) A slot machine or device within the meaning of Sections 330.1 to 330.5, inclusive, of this code is one that is, or may be, used or operated in such a way that, as a result of the insertion of any piece of money or coin or other object the machine or device is caused to operate or may be operated or played, mechanically, electrically, automatically, or manually, and by reason of any element of hazard or chance, the user may receive or become entitled to receive anything of value or any check, slug, token, or memorandum, whether of value or otherwise, which may be given in trade, or the user may secure additional chances or rights to use such machine or device, irrespective of whether it may, apart from any element of hazard or chance, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

SEC. 203. Section 381 of the Penal Code is amended to read:

381. (a) Any person who possesses toluene or any substance or material containing toluene, including, but not limited to, glue, cement, dope, paint thinner, paint and any combination of hydrocarbons, either alone or in combination with any substance or material including but not limited to paint, paint thinner, shellac thinner, and solvents, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of toluene or any material containing toluene, or any combination of hydrocarbons is guilty of a misdemeanor.

(b) Any person who possesses any substance or material, which the State Department of *Public* Health ~~Services~~ has determined by regulations adopted pursuant to the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) has toxic qualities similar to toluene, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who is under the influence of such substance or material is guilty of a misdemeanor.

SEC. 204. Section 594 of the Penal Code, as added by Section 2 of Chapter 851 of the Statutes of 1998, is repealed.

~~594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:~~

~~(1) Defaces with graffiti or other inscribed material.~~

~~(2) Damages.~~

~~(3) Destroys.~~

~~Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, or furnishings belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that~~

~~the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.~~

~~(b) (1) If the amount of defacement, damage, or destruction is fifty thousand dollars ($50,000) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.~~

~~(2) If the amount of defacement, damage, or destruction is five thousand dollars ($5,000) or more but less than fifty thousand dollars ($50,000), vandalism is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.~~

~~(3) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more but less than five thousand dollars ($5,000), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.~~

~~(4) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.~~

~~(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or, if the jurisdiction has adopted a graffiti abatement program, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.~~

~~(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent upon a finding of good cause.~~

~~(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.~~

~~(f) As used in this section, "graffiti abatement program" means a program adopted by a city, county, or city and county by resolution or ordinance that provides for the administration and financing of graffiti removal, community education on the prevention of graffiti, and enforcement of graffiti laws.~~

~~(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (c) to undergo counseling.~~

~~(h) This section shall become operative on January 1, 2002.~~

SEC. 205. Section 594 of the Penal Code, as added by Section 1.2 of Chapter 852 of the Statutes of 1998, is repealed.

~~594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:~~

~~(1) Defaces with graffiti or other inscribed material.~~

~~(2) Damages.~~

~~(3) Destroys.~~

~~Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, or furnishings belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.~~

~~(b) (1) If the amount of defacement, damage, or destruction is fifty thousand dollars ($50,000) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.~~

~~(2) If the amount of defacement, damage, or destruction is five thousand dollars ($5,000) or more but less than fifty thousand dollars ($50,000), vandalism is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.~~

~~(3) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more but less than five thousand dollars ($5,000), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.~~

~~(4) (A) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.~~

~~(B) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), and the defendant has been previously convicted of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000) or by both that fine and imprisonment.~~

~~(c) (1) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or, if the jurisdiction has adopted a graffiti abatement program, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.~~

~~(2) Any city, county, or city and county may enact an ordinance that provides all of the following:~~

~~(A) Upon conviction of any person pursuant to this section for acts of vandalism, the court may, in addition to any punishment imposed under subdivision (b), provided that the court determines that the defendant has the ability to pay any law enforcement costs not exceeding two hundred fifty dollars ($250), order the defendant to pay all or part of the costs not to exceed two hundred fifty dollars ($250) incurred by a law enforcement agency in identifying and apprehending the defendant. The law enforcement agency shall~~

~~provide evidence of, and bear the burden of establishing, the reasonable costs that it incurred in identifying and apprehending the defendant.~~

~~(B) The law enforcement costs authorized to be paid pursuant to this subdivision are in addition to any other costs incurred or recovered by the law enforcement agency, and payment of these costs does not in any way limit, preclude, or restrict any other right, remedy, or action otherwise available to the law enforcement agency.~~

~~(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent upon a finding of good cause.~~

~~(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.~~

~~(f) As used in this section, "graffiti abatement program" means a program adopted by a city, county, or city and county by resolution or ordinance that provides for the administration and financing of graffiti removal, community education on the prevention of graffiti, and enforcement of graffiti laws.~~

~~(g) The court may order any person ordered to perform community service or graffiti removal pursuant to paragraph (1) of subdivision (c) to undergo counseling.~~

~~(h) No amount paid by a defendant in satisfaction of a criminal matter shall be applied in satisfaction of the law enforcement costs that may be imposed pursuant to this section until all outstanding base fines, state and local penalty assessments, restitution orders, and restitution fines have been paid.~~

~~(i) This section shall remain in effect until January 1, 2002, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2002, deletes or extends that date.~~

SEC. 206. Section 597y of the Penal Code is amended to read:

597y. A violation of Section 597u~~,~~ *or* 597v~~, or 597w~~ is a misdemeanor.

SEC. 207. Section 602 of the Penal Code is amended to read:

602. Except as provided in subdivision (u), subdivision (v), subdivision (x), and Section 602.8, every person who willfully

commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard, or notice is intended to indicate or designate a road~~,~~ or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(h) (1) Entering upon lands or buildings owned by any other person without the license of the owner or legal occupant, where

signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or injuring, gathering, or carrying away any animal being housed on any of those lands, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(2) In order for there to be a violation of this subdivision, the trespass signs under paragraph (1) must be displayed at intervals not less than three per mile along all exterior boundaries and at all roads and trails entering the land.

(3) This subdivision shall not be construed to preclude prosecution or punishment under any other provision of law, including, but not limited to, grand theft or any provision that provides for a greater penalty or longer term of imprisonment.

(i) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(j) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(k) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent, or by the person in lawful possession.

(*l*) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent, or of the person in lawful possession, and

(1) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent or by the person in lawful possession to leave the lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands, or

(4) Discharging any firearm.

(m) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(n) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to, or lawfully occupied by, another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession. This subdivision shall not apply to any person described in Section 22350 of the Business and Professions Code who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(o) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent, or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public

and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the ~~California~~ *Alatorre-Zenovich-Dunlap-Berman* Agricultural Labor Relations Act~~, Part~~ *of 1975 (Part* 3.5 (commencing with Section 1140) of Division 2 of the Labor ~~Code,~~ *Code)* or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(p) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(q) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, ~~watchman~~ *watchperson*, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(r) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(s) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a written agreement to the contrary, or other written evidence of a

periodic tenancy of indefinite duration, be exempt from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(t) (1) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

(2) This subdivision shall apply only to a person who has been convicted of a crime committed upon the particular private property.

(3) A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner's agent, or the person in lawful possession of the property.

(4) Where the person has been convicted of a violent felony, as described in subdivision (c) of Section 667.5, this subdivision shall apply without time limitation. Where the person has been convicted of any other felony, this subdivision shall apply for no more than five years from the date of conviction. Where the person has been convicted of a misdemeanor, this subdivision shall apply for no more than two years from the date of conviction. Where the person was convicted for an infraction pursuant to Section 490.1, this subdivision shall apply for no more than one year from the date of conviction. This subdivision shall not apply to convictions for any other infraction.

(u) (1) Knowingly entering, by an unauthorized person, upon any airport operations area, passenger vessel terminal, or public transit facility if the area has been posted with notices restricting access to authorized personnel only and the postings occur not greater than every 150 feet along the exterior boundary, to the extent, in the case of a passenger vessel terminal, as defined in subparagraph (B) of paragraph (3), that the exterior boundary extends shoreside. To the extent that the exterior boundary of a passenger vessel terminal operations area extends waterside, this

prohibition shall apply if notices have been posted in a manner consistent with the requirements for the shoreside exterior boundary, or in any other manner approved by the captain of the port.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars ($100).

(B) By imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment, if the person refuses to leave the airport or passenger vessel terminal after being requested to leave by a peace officer or authorized personnel.

(C) By imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment, for a second or subsequent offense.

(3) As used in this subdivision, the following definitions shall control:

(A) "Airport operations area" means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) "Passenger vessel terminal" means only that portion of a harbor or port facility, as described in Section 105.105(a)(2) of Title 33 of the Code of Federal Regulations, with a secured area that regularly serves scheduled commuter or passenger operations. For the purposes of this section, "passenger vessel terminal" does not include any area designated a public access area pursuant to Section 105.106 of Title 33 of the Code of Federal Regulations.

(C) "Public transit facility" has the same meaning as specified in Section 171.7.

(D) "Authorized personnel" means any person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card. "Authorized personnel" also means any person who has a valid port identification card issued by the harbor operator, or who has a

valid company identification card issued by a commercial maritime enterprise recognized by the harbor operator, or any other person who is being escorted for legitimate purposes by a person with a valid port or qualifying company identification card. "Authorized personnel" also means any person who has a valid public transit employee identification.

(E) "Airport" means any facility whose function is to support commercial aviation.

(v) (1) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a sterile area of an airport, passenger vessel terminal, as defined in Section 171.5, or public transit facility, as defined in subdivision (u), if the sterile area is posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision, is a violation of this subdivision, punishable by a fine of not more than five hundred dollars ($500) for the first offense. A second and subsequent violation is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) Notwithstanding paragraph (1), if a first violation of this subdivision is responsible for the evacuation of an airport terminal, passenger vessel terminal, or public transit facility and is responsible in any part for delays or cancellations of scheduled flights or departures, it is punishable by imprisonment of not more than one year in a county jail.

(w) Refusing or failing to leave a battered women's shelter at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

(x) (1) Knowingly entering or remaining in a neonatal unit, maternity ward, or birthing center located in a hospital or clinic without lawful business to pursue therein, if the area has been posted so as to give reasonable notice restricting access to those with lawful business to pursue therein and the surrounding circumstances would indicate to a reasonable person that he or she has no lawful business to pursue therein. Reasonable notice is that which would give actual notice to a reasonable person, and is posted, at a minimum, at each entrance into the area.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) As an infraction, by a fine not exceeding one hundred dollars ($100).

(B) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment, if the person refuses to leave the posted area after being requested to leave by a peace officer or other authorized person.

(C) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment, for a second or subsequent offense.

(D) If probation is granted or the execution or imposition of sentencing is suspended for any person convicted under this subdivision, it shall be a condition of probation that the person participate in counseling, as designated by the court, unless the court finds good cause not to impose this requirement. The court shall require the person to pay for this counseling, if ordered, unless good cause not to pay is shown.

(y) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access when entering or reentering a courthouse or a city, county, city and county, or state building if entrances to the courthouse or the city, county, city and county, or state building have been posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

SEC. 208. Section 626.95 of the Penal Code, as amended by Section 60 of Chapter 178 of the Statutes of 2010, is amended to read:

626.95. (a) Any person who is in violation of paragraph (2) of subdivision (a), or subdivision (b), of Section 417, or *Section* 25400 or 25850, upon the grounds of or within a playground, or a public or private youth center during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility, knowing that he or she is on or within those grounds, shall be punished by imprisonment in the state prison for one, two, or three years, or in a county jail not exceeding one year.

(b) State and local authorities are encouraged to cause signs to be posted around playgrounds and youth centers giving warning of prohibition of the possession of firearms upon the grounds of or within playgrounds or youth centers.

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

(1) "Playground" means any park or recreational area specifically designed to be used by children that has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city or county parks.

(2) "Youth center" means any public or private facility that is used to host recreational or social activities for minors while minors are present.

(d) It is the Legislature's intent that only an actual conviction of a felony of one of the offenses specified in this section would subject the person to firearms disabilities under the federal Gun Control Act of 1968 (P.L. 90-618; 18 U.S.C. Sec. 921).

SEC. 209. Section 647.7 of the Penal Code is amended to read:

647.7. (a) In any case in which a person is convicted of violating subdivision (i) or ~~(k)~~ *(j)* of Section 647, the court may require counseling as a condition of probation. Any defendant so ordered to be placed in a counseling program shall be responsible for paying the expense of his or her participation in the counseling program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

(b) Every person who, having been convicted of violating subdivision (i) or ~~(k)~~ *(j)* of Section 647, commits a second or subsequent violation of subdivision (i) or ~~(k)~~ *(j)* of Section 647, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment, except as provided in subdivision (c).

(c) Every person who, having been previously convicted of violating subdivision (i) or ~~(k)~~ *(j)* of Section 647, commits a violation of paragraph (3) of subdivision ~~(k)~~ *(j)* of Section 647 regardless of whether it is a first, second, or subsequent violation of that paragraph, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding five thousand dollars ($5,000), or by both that fine and imprisonment.

SEC. 210. Section 653.56 of the Penal Code is amended to read:

653.56. For purposes of this chapter:

(a) "Compensation" means money, property, or anything else of value.

(b) "Immigration matter" means any proceeding, filing, or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Immigration and ~~Naturalization Service~~ *Customs Enforcement*, the United States Department of State, or the United States Department of Labor.

(c) "Person" means any individual, firm, partnership, corporation, limited liability company, association, other organization, or any employee or agent thereof.

(d) "Preparation" means giving advice on an immigration matter and includes drafting an application, brief, document, petition, or other paper, or completing a form provided by a federal or state agency in an immigration matter.

SEC. 211. Section 829.5 of the Penal Code is amended to read:

829.5. (a) "Code enforcement officer" means any person who is not described in Chapter 4.5 (commencing with Section 830) ~~of Title 3 of Part 2~~ and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, who has

enforcement authority for health, safety, and welfare requirements, ~~and~~ whose duties include enforcement of any statute, ~~rules~~ *rule*, ~~regulations~~ *regulation*, or ~~standards~~ *standard*, and who is authorized to issue citations, or file formal complaints.

(b) "Code enforcement officer" also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements pursuant to the Employee Housing Act (Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code); the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code); the ~~Mobilehomes-Manufactured~~ *Manufactured* Housing Act *of 1980* (Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code); the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code); and the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).

SEC. 212. Section 830.8 of the Penal Code, as amended by Section 67 of Chapter 178 of the Statutes of 2010, is amended to read:

830.8. (a) Federal criminal investigators and law enforcement officers are not California peace officers, but may exercise the powers of arrest of a peace officer in any of the following circumstances:

(1) Any circumstances specified in Section 836 *of this code* or Section 5150 of the Welfare and Institutions Code for violations of state or local laws.

(2) When these investigators and law enforcement officers are engaged in the enforcement of federal criminal laws and exercise the arrest powers only incidental to the performance of these duties.

(3) When requested by a California law enforcement agency to be involved in a joint task force or criminal investigation.

(4) When probable cause exists to believe that a public offense that involves immediate danger to persons or property has just occurred or is being committed.

In all of these instances, the provisions of Section 847 shall apply. These investigators and law enforcement officers, prior to the exercise of these arrest powers, shall have been certified by

their agency heads as having satisfied the training requirements of Section 832, or the equivalent thereof.

This subdivision does not apply to federal officers of the Bureau of Land Management or the *United States* Forest Service ~~of the Department of Agriculture~~. These officers have no authority to enforce California statutes without the written consent of the sheriff or the chief of police in whose jurisdiction they are assigned.

(b) Duly authorized federal employees who comply with the training requirements set forth in Section 832 are peace officers when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government, or on any street, sidewalk, or property adjacent thereto, and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction the property is situated.

(c) National park rangers are not California peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws provided these rangers are exercising the arrest powers incidental to the performance of their federal duties or providing or attempting to provide law enforcement services in response to a request initiated by California state park rangers to assist in preserving the peace and protecting state parks and other property for which California state park rangers are responsible. National park rangers, prior to the exercise of these arrest powers, shall have been certified by their agency heads as having satisfactorily completed the training requirements of Section 832.3, or the equivalent thereof.

(d) Notwithstanding any other provision of law, during a state of war emergency or a state of emergency, as defined in Section 8558 of the Government Code, federal criminal investigators and law enforcement officers who are assisting California law enforcement officers in carrying out emergency operations are not deemed California peace officers, but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws. In these instances, the provisions of Section 847 *of this code* and of Section 8655 of the Government Code shall apply.

(e) (1) Any qualified person who is appointed as a Washoe tribal law enforcement officer is not a California peace officer, but may exercise the powers of a Washoe tribal peace officer when engaged in the enforcement of Washoe tribal criminal laws against any person who is an Indian, as defined in subsection ~~(a)~~ *(d)* of Section 450b of Title 25 of the United States Code, on Washoe tribal land. The respective prosecuting authorities, in consultation with law enforcement agencies, may agree on who shall have initial responsibility for prosecution of specified infractions. This subdivision is not meant to confer cross-deputized status as California peace officers, nor to confer California peace officer status upon Washoe tribal law enforcement officers when enforcing state or local laws in the State of California. Nothing in this section shall be construed to impose liability upon or to require indemnification by the County of Alpine or the State of California for any act performed by an officer of the Washoe Tribe. Washoe tribal law enforcement officers shall have the right to travel to and from Washoe tribal lands within California in order to carry out tribal duties.

(2) Washoe tribal law enforcement officers are exempted from the provisions of subdivision (a) of Section 25400 and subdivision (a) and subdivisions (c) to (h), inclusive, of Section 25850 while performing their official duties on their tribal lands or while proceeding by a direct route to or from the tribal lands. Tribal law enforcement vehicles are deemed to be emergency vehicles within the meaning of Section 30 of the Vehicle Code while performing official police services.

(3) As used in this subdivision, the term "Washoe tribal lands" includes the following:

(A) All lands located in the County of Alpine within the limits of the reservation created for the Washoe Tribe of Nevada and California, notwithstanding the issuance of any patent and including rights-of-way running through the reservation and all tribal trust lands.

(B) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(4) As used in this subdivision, the term "Washoe tribal law" refers to the laws codified in the Law and Order Code of the

Washoe Tribe of Nevada and California, as adopted by the Tribal Council of the Washoe Tribe of Nevada and California.

SEC. 213. Section 833.5 of the Penal Code, as amended by Section 68 of Chapter 178 of the Statutes of 2010, is amended to read:

833.5. (a) In addition to any other detention permitted by law, if a peace officer has reasonable cause to believe that a person has a firearm or other deadly weapon with him or her in violation of any provision of law relating to firearms or deadly weapons the peace officer may detain that person to determine whether a crime relating to firearms or deadly weapons has been committed.

For purposes of this section, "reasonable cause to detain" requires that the circumstances known or apparent to the officer must include specific and articulable facts causing him or her to suspect that some offense relating to firearms or deadly weapons has taken place or is occurring or is about to occur and that the person he or she intends to detain is involved in that offense. The circumstances must be such as would cause any reasonable peace officer in like position, drawing when appropriate on his or her training and experience, to suspect the same offense and the same involvement by the person in question.

(b) Incident to any detention permitted pursuant to subdivision (a), a peace officer may conduct a limited search of the person for firearms or weapons if the peace officer reasonably concludes that the person detained may be armed and presently dangerous to the peace officer or others. Any firearm or weapon seized pursuant to a valid detention or search pursuant to this section shall be admissible in evidence in any proceeding for any purpose permitted by law.

(c) This section shall not be construed to otherwise limit the authority of a peace officer to detain any person or to make an arrest based on reasonable cause.

(d) This section shall not be construed to permit a peace officer to conduct a detention or search of any person at the person's residence or place of business absent a search warrant or other reasonable cause to detain or search.

(e) If a firearm or weapon is seized pursuant to this section and the person from whom it was seized owned the firearm or weapon and is convicted of a violation of any offense relating to the possession of such firearm or weapon, the court shall order the

firearm or weapon to be deemed a nuisance and disposed of in the manner provided by Sections 18000 and 18005.

SEC. 214. Section 903.4 of the Penal Code is amended to read:

903.4. The judges are not required to select any ~~names~~ *name* from the list returned by the jury commissioner, but may, if in their ~~judgement~~ *judgment* the due administration of justice requires, make ~~all~~ *every* or any ~~selections~~ *selection* from among the body of persons in the county suitable and competent to serve as grand jurors regardless of the list returned by the jury commissioner.

SEC. 215. Section 1201.3 of the Penal Code is amended to read:

1201.3. (a) Upon the conviction of a defendant for a sexual offense involving a minor victim~~,~~ or, in the case of a minor appearing in juvenile court, if a petition is admitted or sustained for a sexual offense involving a minor victim, the court is authorized to issue orders that would prohibit the defendant or juvenile, for a period up to 10 years, from harassing, intimidating, or threatening the victim or the victim's family members or spouse.

(b) No order issued pursuant to this section shall be interpreted to apply to counsel acting on behalf of the defendant or juvenile, or to investigators working on behalf of counsel, in an action relating to a conviction, petition in juvenile court, or any civil action arising therefrom, provided, however, that no counsel or investigator shall harass or threaten any person protected by an order issued pursuant to subdivision (a).

(c) Notice of the intent to request an order pursuant to this section shall be given to counsel for the defendant or juvenile by the prosecutor or the court at the time of conviction, or disposition of the petition in juvenile court, and counsel shall have adequate time in which to respond to the request before the order is made.

(d) A violation of an order issued pursuant to subdivision (a) is punishable as provided in Section 166.

SEC. 216. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203 or any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who is convicted of violating Section 288 or 288.5 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288 or 288.5.

(3) A person who is convicted of a violation of Section 288 or 288.5 and who was a stranger to the child victim or befriended the child victim for the purpose of committing an act in violation of Section 288 or 288.5, unless the defendant honestly and reasonably believed the victim was 14 years of age or older.

(4) A person who used a weapon during the commission of a violation of Section 288 or 288.5.

(5) A person who is convicted of committing a violation of Section 288 or 288.5 and who has been previously convicted of a violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286, 288, 288.5, 288a, or 289, or of assaulting another person with intent to commit a crime specified in this paragraph in violation of Section 220, or who has been previously convicted in another state of an offense which, if committed or attempted in this state, would constitute an offense enumerated in this paragraph.

(6) A person who violated Section 288 or 288.5 while kidnapping the child victim in violation of Section 207, 209, or 209.5.

(7) A person who is convicted of committing a violation of Section 288 or 288.5 against more than one victim.

(8) A person who, in violating Section 288 or 288.5, has substantial sexual conduct with a victim who is under 14 years of age.

(9) A person who, in violating Section 288 or 288.5, used obscene matter, as defined in Section 311, or matter, as defined in Section 311, depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) (1) Except for a violation of subdivision (b) of Section 288, this section shall only apply if the existence of any fact required in subdivision (a) is alleged in the accusatory pleading and is either

admitted by the defendant in open court, or found to be true by the trier of fact.

(2) For the existence of any fact under paragraph (7) of subdivision (a), the allegation must be made pursuant to this section.

(d) (1) If a person is convicted of a violation of Section 288 or 288.5, and the factors listed in subdivision (a) are not pled or proven, probation may be granted only if the following terms and conditions are met:

(A) If the defendant is a member of the victim's household, the court finds that probation is in the best interest of the child victim.

(B) The court finds that rehabilitation of the defendant is feasible and that the defendant is amenable to undergoing treatment, and the defendant is placed in a recognized treatment program designed to deal with child molestation immediately after the grant of probation or the suspension of execution or imposition of sentence.

(C) If the defendant is a member of the victim's household, probation shall not be granted unless the defendant is removed from the household of the victim until the court determines that the best interests of the victim would be served by his or her return. While removed from the household, the court shall prohibit contact by the defendant with the victim, with the exception that the court may permit supervised contact, upon the request of the director of the court-ordered supervised treatment program, and with the agreement of the victim and the victim's parent or legal guardian, other than the defendant.

(D) If the defendant is not a member of the victim's household, the court shall prohibit the defendant from being placed or residing within one-half mile of the child victim's residence for the duration of the probation term unless the court, on the record, states its reasons for finding that this residency restriction would not serve the best ~~interest~~ *interests* of the victim.

(E) The court finds that there is no threat of physical harm to the victim if probation is granted.

(2) The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

(3) The court shall order the psychiatrist or psychologist who is appointed pursuant to Section 288.1 to include a consideration of the factors specified in subparagraphs (A), (B), and (C) of paragraph (1) in making his or her report to the court.

(4) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon ability to pay.

(5) No victim shall be compelled to participate in a program or counseling, and no program may condition a defendant's enrollment on participation by the victim.

(e) As used in subdivision (d), the following definitions apply:

(1) "Contact with the victim" includes all physical contact, being in the presence of the victim, communicating by any means, including by a third party acting on behalf of the defendant, or sending any gifts.

(2) "Recognized treatment program" means a program that consists of the following components:

(A) Substantial expertise in the treatment of child sexual abuse.

(B) A treatment regimen designed to specifically address the offense.

(C) The ability to serve indigent clients.

(D) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program, or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

SEC. 217. Section 4852.03 of the Penal Code, as amended by Section 84 of Chapter 178 of the Statutes of 2010, is amended to read:

4852.03. (a) The period of rehabilitation shall begin to run upon the discharge of the petitioner from custody due to his or her completion of the term to which he or she was sentenced or upon his or her release on parole or probation, whichever is sooner. For purposes of this chapter, the period of rehabilitation shall constitute five years' residence in this state, plus a period of time determined by the following rules:

(1) To the five years there shall be added four years in the case of any person convicted of violating Section 187, 209, 219, 4500, or 18755 of this code, or subdivision (a) of Section 1672 of the Military and Veterans Code, or of committing any other offense which carries a life sentence.

(2) To the five years there shall be added five years in the case of any person convicted of committing any offense or attempted offense for which sex offender registration is required pursuant to Section 290, except for convictions for violations of subdivision (b), (c), or (d) of Section 311.2, or of Section 311.3, 311.10, or 314. For those convictions, two years shall be added to the five years imposed by this section.

(3) To the five years there shall be added two years in the case of any person convicted of committing any offense that is not listed in paragraph (1) or paragraph (2) and that does not carry a life sentence.

(4) The trial court hearing the application for the certificate of rehabilitation may, if the defendant was ordered to serve consecutive sentences, order that his or her statutory period of rehabilitation be extended for an additional period of time which when combined with the time already served will not exceed the period prescribed by statute for the sum of the maximum penalties for all the crimes.

(5) Any person who was discharged after completion of his or her term or was released on parole before May 13, 1943, is not subject to the periods of rehabilitation set forth in these rules.

(b) Unless and until the period of rehabilitation, as stipulated in this section, has passed, the petitioner shall be ineligible to file his or her petition for a certificate of rehabilitation with the court. Any certificate of rehabilitation that is issued and under which the petitioner has not fulfilled the requirements of this chapter shall be void.

(c) A change of residence within this state does not interrupt the period of rehabilitation prescribed by this section.

SEC. 218. Section 4852.17 of the Penal Code, as amended by Section 85 of Chapter 178 of the Statutes of 2010, is amended to read:

4852.17. Whenever a person is issued a certificate of rehabilitation or granted a pardon from the Governor under this chapter, the fact shall be immediately reported to the Department

of Justice by the court, Governor, officer, or governmental agency by whose official action the certificate is issued or the pardon granted. The Department of Justice shall immediately record the facts so reported on the former criminal record of the person, and transmit those facts to the Federal Bureau of Investigation at Washington, D.C. When the criminal record is thereafter reported by the department, it shall also report the fact that the person has received a certificate of rehabilitation, or pardon, or both.

Whenever a person is granted a full and unconditional pardon by the Governor, based upon a certificate of rehabilitation, the pardon shall entitle the person to exercise thereafter all civil and political rights of citizenship, including, but not limited to: (1) the right to vote; (2) the right to own, possess, and keep any type of firearm that may lawfully be owned and possessed by other citizens; except that this right shall not be restored, and Sections 17800 and 23510 and Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6 shall apply, if the person was ever convicted of a felony involving the use of a dangerous weapon.

SEC. 219. Section 4854 of the Penal Code, as amended by Section 86 of Chapter 178 of the Statutes of 2010, is amended to read:

4854. In the granting of a pardon to a person, the Governor may provide that the person is entitled to exercise the right to own, possess, and keep any type of firearm that may lawfully be owned and possessed by other citizens; except that this right shall not be restored, and Sections 17800 and 23510 and Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6 shall apply, if the person was ever convicted of a felony involving the use of a dangerous weapon.

SEC. 220. Section 5023.2 of the Penal Code is amended to read:

5023.2. (a) In order to promote the best possible patient outcomes, eliminate unnecessary medical and pharmacy costs, and ensure consistency in the delivery of health care services, the department shall maintain a statewide utilization management program that shall include, but not be limited to, all of the following:

(1) Objective, evidence-based medical necessity criteria and utilization guidelines.

(2) The review, approval, and oversight of referrals to specialty medical services.

(3) The management and oversight of community hospital bed usage and supervision of health care bed availability.

(4) Case management processes for high medical risk and high medical cost patients.

(5) A preferred provider organization (PPO) and related contract initiatives that improve the coverage, resource allocation, and quality of contract medical providers and facilities.

(b) The department shall develop and implement policies and procedures to ensure that all adult prisons employ the same statewide utilization management program established pursuant to subdivision (a) that supports the department's goals for cost-effective auditable patient outcomes, access to care, an effective and accessible specialty network, and prompt access to hospital and infirmary resources. The department shall provide a copy of these policies and procedures, by July 1, 2011, to the Joint Legislative Budget Committee, the Senate Committee on Appropriations, the Senate Committee on Budget and Fiscal Review, the Senate Committee on Health, the Senate Committee on Public Safety, the Assembly Committee on Appropriations, the Assembly Committee on Budget, the Assembly Committee on Health, and the Assembly Committee on Public Safety.

(c) (1) The department shall establish annual quantitative utilization management performance objectives to promote greater consistency in the delivery of contract health care services, enhance health care quality outcomes, and reduce unnecessary referrals to contract medical services. On July 1, 2011, the department shall report the specific quantitative utilization management performance objectives it intends to accomplish statewide in each adult prison during the next 12 months to the Joint Legislative Budget Committee, the Senate Committee on Appropriations, the Senate Committee on Budget and Fiscal Review, the Senate Committee on Health, the Senate Committee on Public Safety, the Assembly Committee on Appropriations, the Assembly Committee on Budget, the Assembly Committee on Health, and the Assembly Committee on Public Safety.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2015, pursuant to Section 10231.5 of the Government Code.

(d) On March 1, 2012, and each March 1 thereafter, the department shall report all of the following to the Joint Legislative Budget Committee, the Senate Committee on Appropriations, the Senate Committee on Budget and Fiscal Review, the Senate Committee on Health, the Senate Committee on Public Safety, the Assembly Committee on Appropriations, the Assembly Committee on Budget, the Assembly Committee on Health, and the Assembly Committee on Public Safety:

(1) The extent to which the department achieved the statewide quantitative utilization management performance objectives set forth in the report issued the previous March as well as the most significant reasons for achieving or not achieving those performance objectives.

(2) A list of adult prisons that achieved and a list of adult prisons that did not achieve ~~its~~ *their* quantitative utilization management performance objectives and the significant reasons for the success or failure in achieving those performance objectives at each adult state prison.

(3) The specific quantitative utilization management performance objectives the department and each adult state prison intends to accomplish in the next 12 months.

(4) A description of planned and implemented initiatives necessary to accomplish the next 12 months' quantitative utilization management performance objectives statewide and for each adult state prison. The department shall describe initiatives that were considered and rejected and the reasons for their rejection.

(5) The costs for inmate health care for the previous fiscal year, both statewide and at each adult state prison, and a comparison of costs from the fiscal year prior to the fiscal year being reported both statewide and at each adult state prison.

(e) It is the intent of the Legislature that any activities the department undertakes to implement the provisions of this section shall result in no ~~year over year~~ *year-over-year* net increase in state costs.

(f) The following definitions shall apply to this section:

(1) "Contract medical costs" mean costs associated with an approved contractual agreement for the purposes of providing direct and indirect specialty medical care services.

(2) "Specialty care" means medical services not delivered by primary care providers.

(3) "Utilization management program" means a strategy designed to ensure that health care expenditures are restricted to those that are needed and appropriate by reviewing patient-inmate medical records through the application of defined criteria or expert opinion, or both. Utilization management assesses the efficiency of the health care process and the appropriateness of decisionmaking in relation to the site of care, its frequency, and its duration through prospective, concurrent, and retrospective utilization reviews.

(4) "Community hospital" means an institution located within a city, county, or city and county which is licensed under all applicable state and local laws and regulations to provide diagnostic and therapeutic services for the medical diagnosis, treatment, and care of injured, disabled, or sick persons in need of acute inpatient medical, psychiatric, or psychological care.

(g) The requirement for submitting a report imposed under subdivision (d) is inoperative on March 1, 2016, pursuant to Section 10231.5 of the Government Code.

SEC. 221. Section 6030 of the Penal Code is amended to read:

6030. (a) The Corrections Standards Authority shall establish minimum standards for state and local correctional facilities. The standards for state correctional facilities shall be established by January 1, 2007. The authority shall review those standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training.

(c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant are provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) A dental cleaning while in a state facility.

(f) The standards shall provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both including during transport to a hospital, during delivery, and while in recovery after giving birth, except as provided in Section 5007.7.

(g) In establishing minimum standards, the authority shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of *Public* Health ~~Services~~, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

(5) For female inmates and pregnant inmates in local adult and juvenile facilities:

The California State Sheriffs' Association and Chief Probation Officers' Association of California, and other interested persons.

SEC. 222. Section 6228 of the Penal Code is amended to read:

6228. A defendant is eligible for placement in a restitution center if the defendant does not have a criminal history of a conviction for the sale of drugs within the last five years, or for an offense requiring registration pursuant to Section 290, or a serious felony, as listed in Section 1192.7, or a violent felony, as

listed in Section 667.5, the defendant did not receive a sentence of more than 60 months for the current offense or offenses, the defendant presents no unacceptable risk to the community, and the defendant is employable. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 ~~of Part 3,~~ are applicable to prisoners in restitution centers.

SEC. 223. Section 11180 of the Penal Code is amended to read:

11180. The Interstate Compact for Adult Offender Supervision as contained herein is hereby enacted into law and entered into on behalf of the state with any and all other states legally joining therein in a form substantially as follows:

Preamble

Whereas: The interstate compact for the supervision of Parolees and Probationers was established in 1937. It is the earliest corrections "compact" established among the states and has not been amended since its adoption over 62 years ago.

Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines and it currently has jurisdiction over more than a quarter of a million offenders.

Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements, and sex offender registration.

Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability.

Whereas: Upon the adoption of this Interstate Compact for Adult Offender Supervision, it is the intention of the Legislature to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers as to those states that have ratified this compact.

Be it enacted by the General Assembly (Legislature) of the state of California.

Short title: This Act may be cited as The Interstate Compact for Adult Offender Supervision.

Article I. Purpose

The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in a manner so as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits, and obligations of the compact among the compacting states. In addition, this compact will: create an Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in these types of activities. The compacting states recognize that there is no “right” of any offender to live in another state and that duly accredited

officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and Bylaws and Rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

Article II. Definitions

As used in this compact, unless the context clearly requires a different construction:

"Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

"By-laws" mean those by-laws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

"Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

"Compacting state" means any state which has enacted the enabling legislation for this compact.

"Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

"Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this compact.

"Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

"Non Compacting state" means any state which has not enacted the enabling legislation for this compact.

"Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

"Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

"Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

"State" means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

"State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

Article III. The Compact Commission

The compacting states hereby create the "Interstate Commission for Adult Offender Supervision."

The Interstate Commission shall be a body corporate and joint agency of the compacting states.

The Interstate Commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and whatever additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The Interstate Commission shall consist of Commissioners selected and appointed by resident members of the State Council for Interstate Adult Offender Supervision for each state. In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations; these noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its by-laws for these additional, ex-officio, nonvoting members as it deems necessary. Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of

27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the By-laws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the Interstate Commission and performs other duties as directed by the Commission or set forth in the By-laws.

Article IV. The State Council

Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in this capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the state council or by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

Article V. Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

To adopt a seal and suitable by-laws governing the management and operation of the Interstate Commission.

To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission.

To enforce compliance with compact provisions, Interstate Commission rules, and by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process.

To establish and maintain offices.

To purchase and maintain insurance and bonds.

To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.

To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

To establish a budget and make expenditures and levy dues as provided in Article X of this compact.

To sue and be sued.

To provide for dispute resolution among Compacting States.

To perform whatever functions as may be necessary or appropriate to achieve the purposes of this compact.

To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. These reports shall also include any recommendations that may have been adopted by the Interstate Commission.

To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in these activities.

To establish uniform standards for the reporting, collecting, and exchanging of data.

Article VI. Organization and Operation of the Interstate Commission

Section A. By-laws

The Interstate Commission shall, by a majority of the Members, within twelve months of the first Interstate Commission meeting, adopt By-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

Establishing the fiscal year of the Interstate Commission.

Establishing an executive committee and other committees as may be necessary.

Providing reasonable standards and procedures:

(i) For the establishment of committees.

(ii) Governing any general or specific delegation of any authority or function of the Interstate Commission; providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting; establishing the titles and responsibilities of the officers of the Interstate Commission; providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the By-laws shall exclusively govern the personnel policies and programs of the Interstate Commission; and providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts

and obligations; providing transition rules for "start up" administration of the compact; establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have authorities and duties as may be specified in the By-laws. The chairperson, or in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for a period, upon terms and conditions and for compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise other staff as may be authorized by the Interstate Commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission

The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

Section D. Qualified Immunity, Defense and Indemnification

The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect anyone from suit and/or liability for any damage, loss, injury or liability caused by their intentional or willful and wanton misconduct. The Interstate Commission shall defend the Commissioner of a Compacting State, or his or her representatives or employees, or the Interstate

Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of that person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or ~~judgement~~ *judgment* obtained against ~~anyone~~ *any person* arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that *the* person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of the person.

Article VII. Activities of the Interstate Commission

The Interstate Commission shall meet and take whatever actions as are consistent with the provisions of this Compact.

Except as otherwise provided in this Compact and unless a greater percentage is required by the By-laws, in order to constitute an act of the Interstate Commission, the act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The By-laws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication.

Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's By-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating the Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

Relate solely to the Interstate Commission's internal personnel practices and procedures.

Disclose matters specifically exempted from disclosure by statute.

Disclose trade secrets or commercial or financial information which is privileged or confidential.

Involve accusing any person of a crime, or formally censuring any person.

Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Disclose investigatory records compiled for law enforcement purposes.

Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of the entity.

Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflected in the vote of each Member on the question). All documents considered in connection with any action shall be identified in the minutes. The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its By-laws and Rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

Article VIII. Rulemaking Functions of the Interstate Commission

The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

Rulemaking shall occur pursuant to the criteria set forth in this Article and the By-laws and Rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA"). All

Rules and amendments shall become binding as of the date specified in each Rule or amendment.

If a majority of the legislatures of the Compacting States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then the Rule shall have no further force and effect in any Compacting State.

When promulgating a Rule, the Interstate Commission shall:

Publish the proposed Rule stating with particularity the text of the Rule which is proposed and the reason for the proposed Rule.

Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available.

Provide an opportunity for an informal hearing.

Promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of the Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the Rule unlawful and set it aside. Subjects to be addressed within 12 months after the first meeting must at a minimum include:

Notice to victims and opportunity to be heard.

Offender registration and compliance.

Violations/returns.

Transfer procedures and forms.

Eligibility for transfer.

Collection of restitution and fees from offenders.

Data collection and reporting.

The level of supervision to be provided by the receiving state.

Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

Mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact superceded by this Act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

Article IX. Oversight, Enforcement, and Dispute Resolution by the Interstate Commission

Section A. Oversight

The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor the activities being administered in Non-compacting States which may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the Compact and which may arise among Compacting States and Non-compacting States.

The Interstate Commission shall enact a By-law or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

Section C. Enforcement

The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, Section B, of this compact.

Article X. Finance

The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each Compacting State and shall promulgate a Rule binding upon all Compacting States which governs said assessment.

The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its By-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

Article XI. Compacting States, Effective Date and Amendment

Any state, as defined in Article II of this compact, is eligible to become a Compacting State. The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of Non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

Article XII. Withdrawal, Default, Termination, and Judicial Enforcement

Section A. Withdrawal

Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal. The Withdrawing State shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State. The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty days of its receipt thereof. The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon a later date as determined by the Interstate Commission.

Section B. Default

If the Interstate Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the By-laws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties: Fines, fees and costs in amounts as are deemed to be reasonable as fixed by the Interstate Commission. Remedial training and technical assistance as directed by the Interstate Commission; suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the By-laws and Rules have been

exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform the obligations or responsibilities imposed upon it by this compact, Interstate Commission By-laws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the Defaulting State's legislature and the state council of the termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State. Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate

Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated Rules and By-laws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all litigation costs including reasonable attorneys fees.

Section D. Dissolution of Compact

The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the By-laws.

Article XIII. Severability and Construction

The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

The provisions of this Compact shall be liberally constructed to effectuate its purposes.

Article XIV. Binding Effect of Compact and Other Laws

Section A. Other Laws

Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact.

All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all Rules and By-laws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting

State, the obligations, duties, powers or jurisdiction sought to be conferred by the provision upon the Interstate Commission shall be ineffective and the obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which the obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

SEC. 224. Section 12022 of the Penal Code, as added by Section 5 of Chapter 711 of the Statutes of 2010, is amended to read:

12022. (a) (1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless the arming is an element of that offense. This additional term shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 30510 or Section 30515, or a machinegun, as defined in Section 16880, or a .50 BMG rifle, as defined in Section 30530, the additional and consecutive term described in this subdivision shall be three years whether or not the arming is an element of the offense of which the person was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with an assault weapon or machinegun, or a .50 BMG rifle, whether or not the person is personally armed with an assault weapon or machinegun, or a .50 BMG rifle.

(b) (1) Any person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission of a felony or attempted felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission of a violation or attempted violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code~~,~~ shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission of an offense or attempted offense specified in subdivision (c), shall be punished by an additional and consecutive term of imprisonment in the state prison for one, two, or three years.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as ~~one,~~ *a* single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

SEC. 225. Section 12022.5 of the Penal Code, as added by Section 5 of Chapter 711 of the Statutes of 2010, is amended to read:

12022.5. (a) Except as provided in subdivision (b), any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of that offense.

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 30510 or ~~Section~~ 30515, or a machinegun, as defined in Section 16880, in the

commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding Section 1385 or any other ~~provisions~~ *provision* of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as ~~one,~~ *a* single enhancement.

SEC. 226. Section 12022.7 of the Penal Code, as added by Section 5 of Chapter 711 of the Statutes of 2010, is amended to read:

12022.7. (a) Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three years.

(b) Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony which causes the victim to become comatose due to brain injury or to suffer paralysis of a permanent nature~~,~~ shall be punished by an additional and consecutive term of imprisonment in the state prison for five years. As used in this subdivision, “paralysis” means a major or complete loss of motor

function resulting from injury to the nervous system or to a muscular mechanism.

(c) Any person who personally inflicts great bodily injury on a person who is 70 years of age or older, other than an accomplice, in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

(d) Any person who personally inflicts great bodily injury on a child under the age of five years in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for four, five, or six years.

(e) Any person who personally inflicts great bodily injury under circumstances involving domestic violence in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years. As used in this subdivision, "domestic violence" has the meaning provided in subdivision (b) of Section 13700.

(f) As used in this section, "great bodily injury" means a significant or substantial physical injury.

(g) This section shall not apply to murder or manslaughter or a violation of Section 451 or 452. Subdivisions (a), (b), (c), and (d) shall not apply if infliction of great bodily injury is an element of the offense.

(h) The court shall impose the additional terms of imprisonment under either subdivision (a), (b), (c), or (d), but may not impose more than one of those terms for the same offense.

SEC. 227. Section 12022.85 of the Penal Code, as added by Section 5 of Chapter 711 of the Statutes of 2010, is amended to read:

12022.85. (a) Any person who violates one or more of the offenses listed in subdivision (b) with knowledge that he or she has acquired immune deficiency syndrome (AIDS) or with the knowledge that he or she carries antibodies of the human immunodeficiency virus at the time of the commission of those offenses~~,~~ shall receive a three-year enhancement for each violation in addition to the sentence provided under those sections.

(b) Subdivision (a) applies to the following crimes:

(1) Rape in violation of Section 261.

(2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5.

(3) Rape of a spouse in violation of Section 262.

(4) Sodomy in violation of Section 286.

(5) Oral copulation in violation of Section 288a.

(c) For purposes of proving the knowledge requirement of this section, the prosecuting attorney may use test results received under subdivision (c) of Section 1202.1 or subdivision (g) of Section 1202.6.

SEC. 228. Section 16880 of the Penal Code is amended to read:

16880. (a) As used in this part, "machinegun" means any weapon that shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

(b) The term "machinegun" also includes the frame or receiver of any weapon described in subdivision (a), any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if those parts are in the possession or under the control of a person.

(c) The term "machinegun" also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives* as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

SEC. 229. Section 25105 of the Penal Code is amended to read:

25105. Section 25100 does not apply whenever any of the following occurs:

(a) The child obtains the firearm as a result of an illegal entry to any premises by any person.

(b) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.

(c) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.

(d) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.

(e) The person is a peace officer or a member of the Armed Forces or the National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.

(f) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person.

(g) The person who keeps a loaded firearm on any ~~premise~~ *premises* that ~~is~~ *are* under the person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

SEC. 230. Section 25650 of the Penal Code is amended to read:

25650. (a) Upon approval of the sheriff of the county in which the retiree resides, Section 25400 does not apply to, or affect, any honorably retired federal officer or agent of any federal law enforcement agency, including, but not limited to, the Federal Bureau of Investigation, the *United States* Secret Service, the United States Customs Service, the ~~Federal~~ *federal* Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*, the Federal Bureau of Narcotics, the *United States* Drug Enforcement Administration, the United States Border Patrol, and any officer or agent of the Internal Revenue Service who was authorized to carry weapons while on duty, who was assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

(b) A retired federal officer or agent shall provide the sheriff with certification from the agency from which the officer or agent retired certifying that person's service in the state, *stating* the nature of that person's retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

(c) Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that the retiree may carry a concealed firearm in accordance with this section. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

(d) The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

SEC. 231. Section 26020 of the Penal Code is amended to read:

26020. (a) Upon approval of the sheriff of the county in which the retiree resides, Section 25850 does not apply to any honorably retired federal officer or agent of any federal law enforcement agency, including, but not limited to, the Federal Bureau of Investigation, the *United States* Secret Service, the United States Customs Service, the ~~Federal~~ *federal* Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*, the Federal Bureau of Narcotics, the *United States* Drug Enforcement Administration, the United States Border Patrol, and any officer or agent of the Internal Revenue Service who was authorized to carry weapons while on duty, who was assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

(b) A retired federal officer or agent shall provide the sheriff with certification from the agency from which the officer or agent retired certifying that person's service in the state, *stating* the nature of that person's retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

(c) Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that the retiree may carry a loaded firearm in accordance with this section. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

(d) The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

SEC. 232. Section 26175 of the Penal Code is amended to read:

26175. (a) (1) Applications for licenses, applications for amendments to licenses, amendments to licenses, and licenses under this article shall be uniform throughout the state, upon forms to be prescribed by the Attorney General.

(2) The Attorney General shall convene a committee composed of one representative of the California State Sheriffs' Association, one representative of the California Police ~~Chiefs'~~ *Chiefs* Association, and one representative of the Department of Justice to review, and as deemed appropriate, revise the standard

application form for licenses. The committee shall meet for this purpose if two of the committee's members deem that necessary.

(b) The application shall include a section summarizing the statutory provisions of state law that result in the automatic denial of a license.

(c) The standard application form for licenses described in subdivision (a) shall require information from the applicant, including, but not limited to, the name, occupation, residence, and business address of the applicant, the applicant's age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon.

(d) Applications for licenses shall be filed in writing~~,~~ and signed by the applicant.

(e) Applications for amendments to licenses shall be filed in writing and signed by the applicant, and shall state what type of amendment is sought pursuant to Section 26215 and the reason for desiring the amendment.

(f) The forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application.

(g) An applicant shall not be required to complete any additional application or form for a license, or to provide any information other than that necessary to complete the standard application form described in subdivision (a), except to clarify or interpret information provided by the applicant on the standard application form.

(h) The standard application form described in subdivision (a) is deemed to be a local form expressly exempt from the requirements of the Administrative ~~Procedures~~ *Procedure* Act~~,~~ ~~Chapter~~ *(Chapter* 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government ~~Code~~ *Code)*.

(i) Any license issued upon the application shall set forth the licensee's name, occupation, residence and business address, the licensee's age, height, weight, color of eyes and hair, and the reason for desiring a license to carry the weapon, and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number, and the caliber. The license issued to the licensee may be laminated.

SEC. 233. Section 29010 of the Penal Code is amended to read:

29010. (a) Commencing July 1, 1999, no person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may manufacture firearms within this state unless *that person, firm, or corporation is* licensed pursuant to Chapter 2 (commencing with Section 29030).

(b) Subdivision (a) does not apply to a person licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code who manufactures fewer than 100 firearms in a calendar year within this state.

(c) If a person, firm, or corporation required to be licensed pursuant to Chapter 2 (commencing with Section 29030) ceases operations, then the records required pursuant to Section 29130 and subdivision (b) of Section 29115 shall be forwarded to the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives* within three days of the closure of business.

(d) A violation of this section is a misdemeanor.

SEC. 234. Section 29065 of the Penal Code is amended to read:

29065. (a) Except as provided in subdivision (b), the license of any licensee who violates this chapter may be revoked.

(b) The license of any licensee who knowingly or with gross negligence violates this chapter or violates this chapter three times shall be revoked, and that person, firm, or corporation shall become permanently ineligible to obtain a license pursuant to this chapter.

(c) Upon the revocation of the license, notification shall be provided to local law enforcement authorities in the jurisdiction where the licensee's business is located and to the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*.

SEC. 235. Section 29115 of the Penal Code is amended to read:

29115. (a) Whenever a licensee discovers that a firearm has been stolen or is missing from the licensee's premises, the licensee shall report the loss or theft within 48 hours of the discovery to all of the following:

(1) The Department of Justice, in a manner prescribed by the department.

(2) The federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*.

(3) The police department in the city or city and county where the building designated in the license is located.

(4) If there is no police department in the city or city and county where the building designated in the license is located, the sheriff of the county where the building designated in the license is located.

(b) For at least 10 years, the licensee shall maintain records of all firearms that are lost or stolen, as prescribed by the Department of Justice.

SEC. 236. Section 29142 of the Penal Code is amended to read:

29142. (a) For purposes of this chapter, any licensed manufacturer who produces fewer than 500 firearms in a calendar year within this state may maintain a "secure facility" by complying with all of the requirements described in Section 29141, or may design a security plan that is approved by the Department of Justice or the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*.

(b) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*, the approved plan, along with proof of approval, shall be filed with the Department of Justice and the local police department. If there is no police department, the filing shall be with the county sheriff's office.

(c) If a security plan is approved by the Department of Justice, the approved plan, along with proof of approval, shall be filed with the local police department. If there is no police department, the filing shall be with the county sheriff's office.

SEC. 237. Section 29510 of the Penal Code is amended to read:

29510. (a) The Department of Justice shall recover the full costs of administering the entertainment firearms permit program by assessing the following application fees:

(1) For the initial application: one hundred four dollars ($104). Of this sum, fifty-six dollars ($56) shall be deposited into the Fingerprint ~~Fee~~ *Fees* Account, and forty-eight dollars ($48) shall be deposited into the ~~Dealer~~ *Dealers'* Record of Sale *Special* Account.

(2) For each annual renewal application: twenty-nine dollars ($29), which shall be deposited into the ~~Dealer~~ *Dealers'* Record of Sale *Special* Account.

(b) The department shall annually review and shall adjust the fees specified in subdivision (a), if necessary, to fully fund, but

not to exceed the actual costs of, the permit program provided for by this chapter, including enforcement of the program.

SEC. 238. Section 29615 of the Penal Code is amended to read:

29615. Section 29610 shall not apply if one of the following circumstances exists:

(a) The minor is accompanied by a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves this use of a firearm.

(b) The minor is accompanied by a responsible adult, the minor has the prior written consent of a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(c) The minor is at least 16 years of age, the minor has the prior written consent of a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(d) The minor has the prior written consent of a parent or legal guardian, the minor is on lands owned or lawfully possessed by the parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

SEC. 239. Section 29855 of the Penal Code is amended to read:

29855. (a) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by Section 29805 because of a conviction under Section 273.5, 273.6,

or 646.9, may petition the court only once for relief from this prohibition.

(b) The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner.

(c) Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing.

(d) Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(1) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(2) Finds that the petitioner is not within a prohibited class as specified in Section 29815, 29820, 29825, or 29900, or subdivision (a) or (b) of Section 29800, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) Finds that the petitioner does not have a previous conviction under Section 29805, no matter when the prior conviction occurred.

(e) In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under Section 29805, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this section in cases in which relief is warranted. However, nothing in this section shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by Section 29805.

SEC. 240. Section 30105 of the Penal Code is amended to read:

30105. (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the

information required by Section 28165 to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars ($20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department.

(d) Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department's notification shall state either "eligible to possess firearms as of the date the check was completed" or "ineligible to possess firearms as of the date the check was completed."

(e) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(f) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's *Internet* Web site.

(g) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(h) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms

eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(i) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (d) the following statements:

"No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 30105 of the Penal Code. A violation of these provisions is a misdemeanor."

"If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required."

SEC. 241. Section 31315 of the Penal Code is amended to read:

31315. (a) Before ~~a~~ *any* body armor may be purchased for use by state peace officers, the Department of Justice, after consultation with the Department of the California Highway Patrol, shall establish minimum ballistic performance standards, and shall determine that the armor satisfies those standards.

(b) Only body armor that meets state requirements under subdivision (a) for acquisition or purchase shall be eligible for testing for certification under the ballistic performance standards established by the Department of Justice.

(c) Only body armor that is certified as acceptable by the department shall be purchased for use by state peace officers.

SEC. 242. Section 31910 of the Penal Code is amended to read:

31910. As used in this part, "unsafe handgun" means any pistol, revolver, or other firearm capable of being concealed upon the person, for which any of the following is true:

(a) For a revolver:

(1) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(b) For a pistol:

(1) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated

by the federal Bureau of Alcohol, Tobacco, ~~and~~ Firearms *and Explosives*.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(4) Commencing January 1, 2006, for a center fire semiautomatic pistol that is not already listed on the roster pursuant to Section 32015, it does not have either a chamber load indicator, or a magazine disconnect mechanism.

(5) Commencing January 1, 2007, for all center fire semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it does not have both a chamber load indicator and if it has a detachable magazine, a magazine disconnect mechanism.

(6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it does not have a magazine disconnect mechanism, if it has a detachable magazine.

(7) (A) Commencing January 1, 2010, for all semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it is not designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol, etched or otherwise imprinted in two or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired, provided that the Department of Justice certifies that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions.

(B) The Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in this paragraph, to be thereafter required as otherwise set forth by this paragraph where the Attorney General certifies that this new method is also unencumbered by any patent restrictions. Approval by the Attorney General shall include notice of that fact via regulations adopted by the Attorney General for purposes of implementing that method for purposes of this paragraph.

(C) The microscopic array of characters required by this section shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification, including

any distinguishing number or mark assigned by the Department of Justice, within the meaning of Sections 23900 and 23920.

SEC. 243. Section 32105 of the Penal Code is amended to read:

32105. (a) The Legislature finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that were used for Olympic target shooting purposes as of January 1, 2001, and that fall within the definition of "unsafe handgun" pursuant to paragraph (3) of subdivision (b) of Section 31910 shall be exempt, as provided in subdivisions (b) and (c).

(b) Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000) shall not apply to any of the following pistols, because they are consistent with the significant public purpose expressed in subdivision (a):

MANUFACTURER	MODEL	CALIBER
ANSCHUTZ	FP	.22LR
BENELLI	MP90	.22LR
BENELLI	MP90	.32 S&W LONG
BENELLI	MP95	.22LR
BENELLI	MP95	.32 S&W LONG
DRULOV	FP	.22LR
GREEN	ELECTROARM	.22LR
HAMMERLI	100	.22LR
HAMMERLI	101	.22LR
HAMMERLI	102	.22LR
HAMMERLI	162	.22LR
HAMMERLI	280	.22LR
HAMMERLI	280	.32 S&W LONG
HAMMERLI	FP10	.22LR
HAMMERLI	MP33	.22LR
HAMMERLI	SP20	.22LR
HAMMERLI	SP20	.32 S&W LONG
MORINI	CM102E	.22LR
MORINI	22M	.22LR
MORINI	32M	.32 S&W LONG

MORINI	CM80	~~.22LR~~ *.22LR*
PARDINI	GP	.22 SHORT
PARDINI	GPO	.22 SHORT
PARDINI	GP-SCHUMANN	.22 SHORT
PARDINI	HP	.32 S&W LONG
PARDINI	K22	.22LR
PARDINI	MP	.32 S&W LONG
PARDINI	PGP75	.22LR
PARDINI	SP	.22LR
PARDINI	SPE	.22LR
SAKO	FINMASTER	.22LR
STEYR	FP	.22LR
VOSTOK	IZH NO. 1	.22LR
VOSTOK	MU55	.22LR
VOSTOK	TOZ35	.22LR
WALTHER	FP	.22LR
WALTHER	GSP	.22LR
WALTHER	GSP	.32 S&W LONG
WALTHER	OSP	.22 SHORT
WALTHER	OSP-2000	.22 SHORT

(c) The department shall create a program that is consistent with the purpose stated in subdivision (a) to exempt new models of competitive firearms from Article 4 (commencing with Section 31900) and Article 5 (commencing with Section 32000). The exempt competitive firearms may be based on recommendations by USA Shooting consistent with the regulations contained in the USA Shooting Official Rules or may be based on the recommendation or rules of any other organization that the department deems relevant.

SEC. 244. Section 16062 of the Probate Code is amended to read:

16062. (a) Except as otherwise provided in this section and in Section 16064, the trustee shall account at least annually, at the termination of the trust, and upon a change of trustee, to each beneficiary to whom income or principal is required or authorized in the trustee's discretion to be currently distributed.

(b) A trustee of a living trust created by an instrument executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a).

(c) A trustee of a trust created by a will executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a), except that if the trust is removed from continuing court jurisdiction pursuant to Article 2 (commencing with Section 17350) of Chapter 4 of Part 5, the duty to account provided by subdivision (a) applies to the trustee.

(d) Except as provided in Section 16064, the duty of a trustee to account pursuant to former Section 1120.1a of the Probate Code (as repealed by Chapter 820 of the Statutes of 1986), under a trust created by a will executed before July 1, 1977, which has been removed from continuing court jurisdiction pursuant to former Section 1120.1a, continues to apply after July 1, 1987. The duty to account under former Section 1120.1a may be satisfied by furnishing an account that satisfies the requirements of Section 16063.

(e) Any limitation or waiver in a trust instrument of the obligation to account is against public policy and shall be void as to any sole trustee who is ~~a~~ *either of the following:*

(1) A disqualified person as defined in Section 21350.5 ~~or who is described~~.

(2) Described in subdivision (a) of Section 21380 ~~and is~~, *but* not described in Section 21382.

SEC. 245. Section 21355 of the Probate Code is amended to read:

21355. (a) This part shall apply to instruments that become irrevocable on or after September 1, 1993, and before January 1, 2011. For the purposes of this section, an instrument that is otherwise revocable or amendable shall be deemed to be irrevocable if, on or after September 1, 1993, the transferor, by reason of incapacity, was unable to change the disposition of his or her property and did not regain capacity before the date of his or her death.

(b) This part shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 246. Section 2203 of the Public Contract Code is amended to read:

2203. (a) (1) A person that, at the time of bid or proposal for a new contract or renewal of an existing contract, is identified on a list created pursuant to subdivision (b) as a person engaging in

investment activities in Iran as described in subdivision (a) of Section 2202.5, is ineligible to, and shall not, bid on, submit a proposal for, or enter into or renew, a contract with a public entity for goods or services of one million dollars ($1,000,000) or more.

(2) A person that, at the time of bid or proposal for a new contract or renewal of an existing contract, engages in investment activities in Iran as described in subdivision (b) of Section 2202.5, is ineligible to, and shall not, bid on, submit a proposal for, or enter into or renew, a contract with a public entity for goods or services of one million dollars ($1,000,000) or more.

(b) (1) By June 1, 2011, the Department of General Services shall, using credible information available to the public, develop, or contract to develop, a list of persons it determines engage in investment activities in Iran as described in subdivision (a) of Section 2202.5.

(2) The Department of General Services shall update the list every 180 days.

(3) Before finalizing an initial list pursuant to paragraph (1) or ~~on~~ *an* updated list pursuant to paragraph (2), the Department of General Services shall do all of the following before a person is included on the list:

(A) Provide 90 days' written notice of its intent to include the person on the list. The notice shall inform the person that inclusion on the list would make the person ineligible to bid on, submit a proposal for, or enter into or renew, a contract for goods or services of one million dollars ($1,000,000) or more with a public entity. The notice shall specify that the person, if it ceases its engagement in investment activities in Iran as described in subdivision (a) of Section 2202.5, may become eligible for a future contract, or contract renewal, for goods or services of one million dollars ($1,000,000) or more with a public entity upon removal from the list.

(B) The Department of General Services shall provide a person with an opportunity to comment in writing to the Department of General Services that it is not engaged in investment activities in Iran. If the person demonstrates to the Department of General Services that the person is not engaged in investment activities in Iran as described in subdivision (a) of Section 2202.5, the person shall not be included on the list, and shall be eligible to enter into or renew a contract for goods or services of one million dollars

($1,000,000) or more with a public entity, unless the person is otherwise ineligible to bid on a contract as described in paragraph (3) of subdivision (a) of Section 2205.

(4) The Department of General Services shall make every effort to avoid erroneously including a person on the list.

(5) The Department of General Services may assess a fee upon persons that use this list to comply with the provisions of this act, in order to pay for the necessary, actual costs of creating and maintaining this list. The Department of General Services shall provide the list free of charge to any public entity and to the Legislature, upon request.

(6) A person that has a contract with CalPERS or CalSTRS, or both, shall not be deemed a person that engages in investment activities in Iran on the basis of those investments with CalPERS or CalSTRS.

(c) Notwithstanding subdivision (a), a public entity may permit a person engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enter into or renew, a contract for goods or services of one million dollars ($1,000,000) or more with a public entity if either of the following are true:

(1) All of the following occur:

(A) The investment activities in Iran were made before July 1, 2010.

(B) The investment activities in Iran have not been expanded or renewed after July 1, 2010.

(C) The awarding body determines that it is in the best interest of the state or local public entity to contract with the person. For purposes of state contracts for goods or services of one million dollars ($1,000,000) or more, “awarding body” means the Department of General Services. For purposes of local contracts for goods or services of one million dollars ($1,000,000) or more, “awarding body” means the representative of the local public entity awarding the contract, as described in subdivision (a) of Section 2202.

(D) The person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran.

(2) One of the following occurs:

(A) For a contract for goods or services of one million dollars ($1,000,000) or more with a local public entity, the local public entity makes a public finding that, absent such an exemption, the local public entity would be unable to obtain the goods or services for which the contract is offered.

(B) For a contract for goods or services of one million dollars ($1,000,000) or more with a state agency, other than the office of a state constitutional officer, the Governor makes a public finding that absent such an exemption, the state agency would be unable to obtain the goods or services for which the contract is offered.

(C) For a contract for goods or services of one million dollars ($1,000,000) or more with an office of a state constitutional officer, if the state constitutional officer makes a public finding that, absent such an exemption, his or her office would be unable to obtain the goods or services for which the contract is offered.

(d) Notwithstanding subdivision (a), a public entity shall permit a financial institution described in subdivision (b) of Section 2202.5 to be eligible for, or to bid on, submit a proposal for, or enter into or renew, a contract for goods or services of one million dollars ($1,000,000) or more with a public entity if the person using the credit to provide goods or services in the energy sector of Iran is a person permitted to submit a bid or proposal to the public entity pursuant to subdivision (c).

(e) The prohibition described in paragraph (1) of subdivision (a) applies on and after June 1, 2011. The prohibition described in paragraph (2) of subdivision (a) applies on and after July 1, 2011.

SEC. 247. Section 6802 of the Public Contract Code is amended to read:

6802. (a) Subject to the limitations of this chapter, a local transportation entity, if authorized by the commission, may utilize the design-build method of procurement for up to five projects that may be for local street or road, bridge, tunnel, or public transit projects within the jurisdiction of the entity.

(b) Subject to the limitations of this chapter, the department, if authorized by the commission, may utilize the design-build method of procurement for up to 10 state highway, bridge, or tunnel projects.

(c) (1) In addition to the projects authorized pursuant to subdivisions (a) and (b), and subject to the limitations of this

chapter, the Riverside County Transportation Commission, if authorized by the commission, may utilize design-build procurement for the State Route 91 Corridor Improvements Project on the state highway system.

(2) Notwithstanding any other provision of this chapter, the department shall be the agency responsible for the performance of construction inspection services for the project authorized pursuant to this subdivision. Construction inspection services for the project authorized pursuant to this subdivision include, but are not limited to, surveying, testing the materials, verification testing, monitoring of environmental compliance, quality control inspection, and quality assurance audits. The construction inspection duties and responsibilities shall include a direct reporting relationship between the inspectors and senior department engineers responsible for all inspectors and construction inspection services. The senior department engineer responsible for construction inspection services shall be responsible for the acceptance or rejection of the work.

(3) Notwithstanding any other provision of law, for the project authorized pursuant to this subdivision, the department shall retain the authority to stop the contractor's operation wholly or in part and take appropriate action when public safety is jeopardized. The department shall ensure that public safety and convenience ~~is~~ *are* maintained whenever work is performed under an encroachment permit within the state highway right-of-way, including, but not limited to, work performed that includes lane closures, signing, work performed at night, detours, dust control, temporary pavement quality, crash cushions, temporary railings, pavement transitions, falsework, shoring, and delineation. The department shall regularly inspect the job sites for safety compliance and any possible deficiencies. If any deficiency is observed, a written notice shall be sent to the resident engineer to correct the deficiency. Once the deficiency is corrected, a written notice describing the resolution of the deficiency shall be sent to the department and documented.

(4) The department may use department employees or consultants to perform the services described in this subdivision, consistent with Article XXII of the California Constitution. Department resources necessary for the performance of those services, including personnel requirements, shall be included in

the department's capital outlay support program for workload purposes in the annual Budget Act.

(5) Not later than the first day of July that occurs two years after a design-build contract is awarded, and each July 1 thereafter until the project is completed, the Riverside County Transportation Commission shall submit a report on the progress of the project and compliance with this section to the legislative policy committees having jurisdiction over transportation matters.

SEC. 248. Section 6804 of the Public Contract Code is amended to read:

6804. (a) For contracts awarded prior to the effective date of either the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code or the fees established by the department pursuant to subdivision (b), a transportation entity authorized to use the design-build method of procurement shall implement a labor compliance program, as described in Section 1771.5 of the Labor Code, or it shall contract with a third party to implement, on the transportation entity's behalf, a labor compliance program subject to that statute. This requirement does not apply to a project where the transportation entity or design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(b) For contracts awarded on or after the effective date of both the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code and the fees established by the department pursuant to this subdivision, the transportation entity shall pay a fee to the department, in an amount that the department shall establish, and as it may from time to time amend, sufficient to support the department's costs in ensuring compliance with and enforcing prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55 of the Labor Code. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund, created by *Section* 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.

(c) The Department of Industrial Relations may waive the fee set forth in subdivision (b) for a transportation entity that has

previously been granted approval by the director to initiate and operate a labor compliance program on its projects, and that requests to continue to operate the labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55 of the Labor Code. This fee shall not be waived for a transportation entity that contracts with a third party to initiate and enforce labor compliance programs on the transportation entity's projects.

SEC. 249. Section 6808 of the Public Contract Code is amended to read:

6808. (a) Notwithstanding any other provision of this chapter, for a project authorized under subdivision (b) of Section 6802, the department is the responsible agency for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and environmental documents, and construction inspection services. The department is also the responsible agency for the preparation of documents that may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering quality of materials, equipment, and workmanship, preliminary plans, and any other information deemed necessary to ~~described~~ *describe* adequately the needs of the transportation entity.

(b) The department may use department employees or consultants to perform the services described in subdivision (a), consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary for the performance of those services shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

SEC. 250. Section 10295.2 of the Public Contract Code is amended to read:

10295.2. (a) No vehicle acquisition request, vehicle purchase order, or new contract shall be approved by the Department of General Services for the purchase of new vehicles that would result in the expenditure of funds unless a certification is received in writing and signed by the secretary or director of an agency or a department, respectively, or his or her ~~designees~~ *designee*, that has requested the acquisition of the new vehicles, verifying that the purchase is vital and mission critical for the agency or department.

(b) The certification shall include the date, title, and the signature of the person authorizing the purchase.

SEC. 251. Section 20133 of the Public Contract Code is amended to read:

20133. (a) A county, with approval of the board of supervisors, may utilize an alternative procedure for bidding on construction projects in the county in excess of two million five hundred thousand dollars ($2,500,000) and may award the project using either the lowest responsible bidder or by best value.

(b) (1) It is the intent of the Legislature to enable counties to utilize design-build for buildings and county sanitation wastewater treatment facilities. It is not the intent of the Legislature to authorize this procedure for other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructures.

(2) The Legislature also finds and declares that utilizing a design-build contract requires a clear understanding of the roles and responsibilities of each participant in the design-build process.

(3) (A) For contracts awarded prior to either the effective date of regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code or the fees established by the department pursuant to subparagraph (B), if the board of supervisors elects to proceed under this section, the board of supervisors shall establish and enforce for design-build projects a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the county or the design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(B) For contracts awarded on or after both the effective date of regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code and the fees established by the department pursuant to this subparagraph, the board of supervisors shall pay a fee to the department, in an amount that the department shall establish, and as it may from time to time amend, sufficient to support the department's costs in ensuring compliance with and enforcing

prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55. All fees collected pursuant to this paragraph shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wages requirements on those projects.

(C) The Department of Industrial Relations may waive the fee set forth in subparagraph (B) if the board of supervisors has previously been granted approval by the director to initiate and operate a labor compliance program on its projects and requests to continue to operate that labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55. The fee shall not be waived for the board of supervisors if it contracts with a third party to initiate and enforce labor compliance programs on its projects.

(c) As used in this section:

(1) "Best value" means a value determined by objective criteria related to price, features, functions, and life-cycle costs.

(2) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(4) "Project" means the construction of a building and improvements directly related to the construction of a building, and county sanitation wastewater treatment facilities, but does not include the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure.

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The county shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the public improvement, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the county's needs. The

performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the county to assist in the development of the project specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the county shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the county. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the county to inform interested parties of the contracting opportunity, to include the methodology that will be used by the county to evaluate proposals and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant objective factors that the county reasonably expects to consider in evaluating proposals, including cost or price and all ~~nonprice related~~ *non-price-related* factors.

(iii) The relative importance of weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of subparagraph (A), if a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the county chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately or incorporate into the request for proposal applicable rules and procedures to be observed by the county to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The county shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the county. In preparing the questionnaire, the county shall consult with the construction industry, including representatives of the

building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, as well as a financial statement that assures the county that the design-build entity has the capacity to complete the project.

(iii) The licenses, registration, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(iv) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(v) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, or the federal Occupational Safety and Health Act of 1970 ~~(P.L. 91-596)~~ *(29 U.S.C. Sec. 651 et seq.)*, settled against any member of the design-build entity, and information concerning workers' compensation experience history and worker safety program.

(vi) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance in which an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(vii) Any instance in which the entity, or its owners, officers, or managing employees, defaulted on a construction contract.

(viii) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits,

apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contributions Act (FICA; 26 U.S.C. Sec. 3101 et seq.) withholding requirements settled against any member of the design-build entity.

(ix) Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.

(x) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(xi) In the case of a partnership or an association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be fully liable for the performance under the design-build contract.

(xii) (I) Any instance in which the entity, or any of its members, owners, officers, or managing employees was, during the five years preceding submission of a bid pursuant to this section, determined by a court of competent jurisdiction to have submitted, or legally admitted for purposes of a criminal plea to have submitted either of the following:

(ia) Any claim to any public agency or official in violation of the federal False Claims Act (31 U.S.C. Sec. 3729 et seq.).

(ib) Any claim to any public official in violation of the California False Claims Act (Article 9 (commencing with Section 12650) of Chapter 6 of Part 2 of Division 3 of the Government Code).

(II) Information provided pursuant to this subdivision shall include the name and number of any case filed, the court in which it was filed, and the date on which it was filed. The entity may also provide further information regarding any such instance, including any mitigating or extenuating circumstances that the entity wishes the county to consider.

(B) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information

that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(4) The county shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the following criteria:

(A) A competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. Awards shall be made to the lowest responsible bidder.

(B) A county may use a design-build competition based upon best value and other criteria set forth in paragraph (2). The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall each represent at least 10 percent of the total weight of consideration given to all criteria factors: price, technical design, and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the county shall publicly announce its award, identifying the contractor to whom the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the county's ~~second~~ *second-* and ~~third ranked~~ *third-ranked* design-build entities.

(v) For purposes of this paragraph, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of

Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For purposes of this paragraph, a bidder's "safety record" shall be deemed "acceptable" if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(e) (1) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omission insurance coverage sufficient to cover all design and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(2) Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the county.

(f) All subcontractors that were not listed by the design-build entity in accordance with clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) shall be awarded by the design-build entity in accordance with the design-build process set forth by the county in the design-build package. All subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the county.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) Lists of subcontractors, bidders, and bid awards relating to the project shall be submitted by the design-build entity to the awarding body within 14 days of the award. These documents are

deemed to be public records and shall be available for public inspection pursuant to this chapter and Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of the Government Code.

(h) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the county.

(i) The county may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(j) Contracts awarded pursuant to this section shall be valid until the project is completed.

(k) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(*l*) (1) If the county elects to award a project pursuant to this section, retention proceeds withheld by the county from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the county and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the county and the design-build entity from any payment made by the design-build entity to the subcontractor.

(m) Each county that elects to proceed under this section and uses the design-build method on a public works project shall submit to the Legislative Analyst's Office before September 1, 2013, a report containing a description of each public works project procured through the design-build process and completed after November 1, 2009, and before August 1, 2013. The report shall include, but shall not be limited to, all of the following information:

(1) The type of project.
(2) The gross square footage of the project.
(3) The design-build entity that was awarded the project.
(4) The estimated and actual length of time to complete the project.
(5) The estimated and actual project costs.
(6) Whether the project was met or altered.
(7) The number and amount of project change orders.
(8) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protests.
(9) An assessment of the prequalification process and criteria.
(10) An assessment of the effect of retaining ~~5 percent~~ *5-percent* retention on the project.
(11) A description of the Labor Force Compliance Program and an assessment of the project impact, where required.
(12) A description of the method used to award the contract. If best value was the method, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.
(13) An assessment of the project impact of "skilled labor force availability."
(14) An assessment of the design-build dollar limits on county projects. This assessment shall include projects where the county wanted to use design-build and was precluded by the dollar limitation. This assessment shall also include projects where the best value method was not used due to dollar limitations.
(15) An assessment of the most appropriate uses for the design-build approach.
(n) Any county that elects not to use the authority granted by this section may submit a report to the Legislative Analyst's Office explaining why the county elected not to use the design-build method.
(o) On or before January 1, 2014, the Legislative Analyst shall report to the Legislature on the use of the design-build method by counties pursuant to this section, including the information listed in ~~subdivision~~ *subdivisions* (m) and (p). The report may include recommendations for modifying or extending this section.
(p) The Legislative Analyst shall complete a fact-based analysis of the use of the design-build method by counties pursuant to this

section, utilizing the information provided pursuant to subdivision (m) and any independent information provided by the public or interested parties. The Legislative Analyst shall select a representative sample of projects under this section and review available public records and reports, media reports, and related information in its analysis. The Legislative Analyst shall compile the information required to be analyzed pursuant to this subdivision into a report, which shall be provided to the Legislature. The report shall include conclusions describing the actual cost of projects procured pursuant to this section, whether the project schedule was met or altered, and whether projects needed or used project change orders.

(q) Except as provided in this section, this act shall not be construed to affect the application of any other law.

(r) This section shall remain in effect only until July 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2014, deletes or extends that date.

SEC. 252. Section 20193 of the Public Contract Code is amended to read:

20193. (a) (1) Notwithstanding any other law and subject to the limitations of this article, a qualified entity, with approval of its governing body, may utilize an alternative procedure on bidding on projects in excess of two million five hundred thousand dollars ($2,500,000).

(2) Only 20 design-build projects shall be authorized under this article.

(3) A qualified entity may award a project using either the lowest responsible bidder or by best value.

(4) For purposes of this article, “qualified entity” means an entity that meets both of the following:

(A) The entity is any of the following:

(i) A city.

(ii) A county.

(iii) A city and county.

(iv) A special district.

(B) The entity operates wastewater facilities, solid waste management facilities, or water recycling facilities.

(b) (1) For contracts awarded prior to the effective date of either the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code

or the fees established by the department pursuant to paragraph (2), if a qualified entity elects to proceed under this section, the qualified entity shall establish and enforce for design-build projects a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code, or it shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to any project where the qualified entity or the design-build entity has entered into any collective bargaining agreement or agreements that bind all of the contractors performing work on the projects.

(2) For contracts awarded on or after the effective date of both the regulations adopted by the Department of Industrial Relations pursuant to subdivision (b) of Section 1771.55 of the Labor Code and the fees established by the department pursuant to this paragraph, the qualified entity shall pay a fee to the department, in an amount that the department shall establish, and as it may from time to time amend, sufficient to support the department's costs in ensuring compliance with and enforcing prevailing wage requirements on the project, and labor compliance enforcement as set forth in subdivision (b) of Section 1771.55 *of the Labor Code*. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing wage requirements on those projects.

(3) The Department of Industrial Relations may waive the fee set forth in paragraph (2) if the qualified entity has previously been granted approval by the director to initiate and operate a labor compliance program on its projects and requests to continue to operate that labor compliance program on its projects in lieu of labor compliance by the department pursuant to subdivision (b) of Section 1771.55. The fee shall not be waived for the qualified entity if it contracts with a third party to initiate and enforce labor compliance programs on its projects.

(c) As used in this section:

(1) "Best value" means a value determined by objective criteria related to price, features, functions, small business contracting plans, past performance, and life-cycle costs.

(2) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(4) "Project" means the construction of regional and local wastewater treatment facilities, regional and local solid waste facilities, or regional and local water recycling facilities.

(d) Design-build projects shall progress in a four-step process, as follows:

(1) (A) The qualified entity shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the project and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or project layouts, or any other information deemed necessary to describe adequately the qualified entity's needs. The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

(B) Any architect or engineer retained by the qualified entity to assist in the development of the project specific documents shall not be eligible to participate in the preparation of a bid with any design-build entity for that project.

(2) (A) Based on the documents prepared in paragraph (1), the qualified entity shall prepare a request for proposals that invites interested parties to submit competitive sealed proposals in the manner prescribed by the qualified entity. The request for proposals shall include, but is not limited to, the following elements:

(i) Identification of the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the qualified entity to inform interested parties of the contracting opportunity, to include the methodology that will be used by the qualified entity to evaluate proposals and specifically if the contract will be awarded to the lowest responsible bidder.

(ii) Significant factors that the qualified entity reasonably expects to consider in evaluating proposals, including cost or price and all ~~nonprice related~~ *non-price-related* factors.

(iii) The relative importance of weight assigned to each of the factors identified in the request for proposals.

(B) With respect to clause (iii) of subparagraph (A), if a nonweighted system is used, the qualified entity shall specifically disclose whether all evaluation factors other than cost or price when combined are:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(C) If the qualified entity chooses to reserve the right to hold discussions or negotiations with responsive bidders, it shall so specify in the request for proposal and shall publish separately or incorporate into the request for proposal applicable rules and procedures to be observed by the qualified entity to ensure that any discussions or negotiations are conducted in good faith.

(3) (A) The qualified entity shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the qualified entity. In preparing the questionnaire, the qualified entity shall consult with the construction industry, including representatives of the building trades and surety industry. This questionnaire shall require information including, but not limited to, all of the following:

(i) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members known at the time of bid submission who will participate in the design-build contract, including, but not limited to, mechanical subcontractors.

(ii) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, as well as a financial statement that assures the special district that the design-build entity has the capacity to complete the project.

(iii) The licenses, registration, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(iv) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(v) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 ~~(Public Law 91-596)~~ *(29 U.S.C. Sec. 651 et seq.)*, settled against any member of the design-build entity, and information concerning workers' compensation experience history and worker safety program.

(vi) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive, or were found by an awarding body not to be a responsible bidder.

(vii) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(viii) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(ix) Information concerning the bankruptcy or receivership of any member of the design-build entity, including information concerning any work completed by a surety.

(x) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this period.

(xi) In the case of a partnership or other association, that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members

agree to be fully liable for the performance under the design-build contract.

(B) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(4) The qualified entity shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the following criteria:

(A) A competitive bidding process resulting in lump-sum bids by the prequalified design-build entities. Awards shall be made to the lowest responsible bidder.

(B) A qualified entity may use a design-build competition based upon best value and other criteria set forth in paragraph (2) of subdivision (d). The design-build competition shall include the following elements:

(i) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal. However, the following minimum factors shall each represent at least 10 percent of the total weight of consideration given to all criteria factors; price, technical design and construction expertise, life-cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record.

(ii) Once the evaluation is complete, the top three responsive bidders shall be ranked sequentially from the most advantageous to the least.

(iii) The award of the contract shall be made to the responsible bidder whose proposal is determined, in writing, to be the most advantageous.

(iv) Notwithstanding any provision of this code, upon issuance of a contract award, the qualified entity shall publicly announce its award, identifying the contractor to which the award is made, along with a written decision supporting its contract award and stating the basis of the award. The notice of award shall also include the qualified entity's ~~second~~ *second-* and ~~third-ranked~~ *third-ranked* design-build entities.

(v) For purposes of this paragraph, "skilled labor force availability" shall be determined by the existence of an agreement with a registered apprenticeship program, approved by the California Apprenticeship Council, which has graduated apprentices in each of the preceding five years. This graduation requirement shall not apply to programs providing apprenticeship training for any craft that has been deemed by the Department of Labor and the Department of Industrial Relations to be an apprenticeable craft in the five years prior to enactment of this act.

(vi) For purposes of this paragraph, a bidder's "safety record" shall be deemed "acceptable" if their experience modification rate for the most recent three-year period is an average of 1.00 or less, and their average total recordable injury/illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category, or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(e) (1) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding to cover the contract amount for nondesign services, and errors and omissions insurance coverage sufficient to cover all design and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.

(2) Any payment or performance bond written for the purposes of this section shall be written using a bond form developed by the qualified entity.

(f) All subcontractors that were not listed by the design-build entity in accordance with clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) shall be awarded by the design-build entity in accordance with the design-build process set forth by the qualified entity in the design-build package. All subcontractors bidding on contracts pursuant to this section shall be afforded the protections contained in Chapter 4 (commencing with Section 4100) of Part 1. The design-build entity shall do both of the following:

(1) Provide public notice of the availability of work to be subcontracted in accordance with the publication requirements

applicable to the competitive bidding process of the qualified entity.

(2) Provide a fixed date and time on which the subcontracted work will be awarded in accordance with the procedure established pursuant to this section.

(g) The minimum performance criteria and design standards established pursuant to paragraph (1) of subdivision (d) shall be adhered to by the design-build entity. Any deviations from those standards may only be allowed by written consent of the qualified entity.

(h) The qualified entity may retain the services of a design professional or construction project manager, or both, throughout the course of the project in order to ensure compliance with this section.

(i) Contracts awarded pursuant to this section shall be valid until the project is completed.

(j) Nothing in this section is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(k) (1) If the qualified entity elects to award a project pursuant to this section, retention proceeds withheld by the qualified entity from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the design-build entity and the subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the qualified entity and the design-build entity. If the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the qualified entity and the design-build entity from any payment made by the design-build entity to the subcontractor.

(*l*) Each qualified entity that elects to proceed under this section and uses the design-build method on a public works project shall do both of the following:

(1) Notify the Legislative Analyst's Office upon initiation of the project and upon completion of the project.

(2) Submit to the Legislative Analyst's Office, upon completion of the project, a report containing a description of the public works project procured through the design-build process pursuant to this section and completed after January 1, 2009. The report shall include, but shall not be limited to, all of the following information:

(A) The type of project.

(B) The gross square footage of the project.

(C) The design-build entity that was awarded the project.

(D) The estimated and actual project costs.

(E) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protests.

(F) An assessment of the prequalification process and criteria.

(G) An assessment of the effect of retaining 5-percent retention on the project.

(H) A description of the Labor Force Compliance Program and an assessment of the project impact, where required.

(I) A description of the method used to award the contract. If best value was the method, the report shall describe the factors used to evaluate the bid, including the weighting of each factor and an assessment of the effectiveness of the methodology.

(J) An assessment of the project impact of "skilled labor force availability."

(K) An assessment of the most appropriate uses for the design-build approach.

(m) Any qualified entity that elects not to use the authority granted by this section may submit a report to the Legislative Analyst's Office explaining why the qualified entity elected to not use the design-build method.

(n) (1) In order to comply with paragraph (2) of subdivision (a), the Office of Planning and Research is required to maintain the list of entities that have applied and are eligible to be qualified for this authority.

(2) Each entity that is interested in proceeding under the authority in this section must apply to the Office of Planning and Research.

(A) The application to proceed must be in writing.

(B) An entity must have complied with the California Environmental Quality Act review process pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code prior to its application, and must include its approved notice of determination or notice of completion in its application.

(3) The Office of Planning and Research must approve or deny an application, in writing, within 30 days. The authority to deny an application shall only be exercised if the conditions set forth in either or both paragraph (2) of subdivision (a) and subparagraph (B) of paragraph (2) of this subdivision have not been satisfied.

(4) An entity utilizing this section must, after it determines it no longer is interested in using this authority, notify the Office of Planning and Research in writing within 30 days of its determination. Upon notification, the Office of Planning and Research may contact any previous applicants, denied pursuant to paragraph (2) of subdivision (a), to inform them of the availability to proceed under this section.

(o) The Legislative Analyst shall report to the Legislature on the use of the design-build method by qualified entities pursuant to this section, including the information listed in subdivision (*l*). The report may include recommendations for modifying or extending this section, and shall be submitted on either of the following dates, whichever occurs first:

(1) Within one year of the completion of the 20 projects, if the projects are completed prior to January 1, 2019.

(2) No later than January 1, 2020.

SEC. 253. The heading of Article 32 (commencing with Section 20520) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is amended to read:

Article 32. City Councils—Municipal Lighting ~~Maintainence~~ *Maintenance* District Act of 1927

SEC. 254. Section 667 of the Public Resources Code is amended to read:

667. Each member of the board shall receive one hundred dollars ($100) for each day during which the member is engaged in the performance of official duties. The compensation of each member, except the compensation of the chair, shall not, however, exceed in any one fiscal year the sum of four thousand dollars

($4,000). The chair of the board may receive compensation ~~of~~ not to exceed five thousand dollars ($5,000) in any one fiscal year for the performance of official duties. In addition to the compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

SEC. 255. Section 4186 of the Public Resources Code is amended to read:

4186. All ~~money~~ *moneys* that ~~is~~ *are* received by the state pursuant to the federal Clarke-McNary Act and that ~~is~~ *are* regularly allotted by the federal government according to an annual formula shall be paid into the General Fund. Any supplemental money received from the federal government pursuant to the federal Clarke-McNary Act for use by the department for specially designated projects shall be authorized by the Director of Finance for augmentation of the subitem captioned "Reimbursements" of the principal item of appropriation from the General Fund for the support of the department contained in the Budget Act for the fiscal year during which the supplemental money is received. However, the Director of Finance shall not authorize the augmentation sooner than 30 days after notification in writing of the necessity for the augmentation to the ~~chair~~ *chairperson* of the committee in each house ~~which~~ *that* considers appropriations and to the ~~Chair~~ *Chairperson* of the Joint Legislative Budget Committee or sooner than ~~any~~ *whatever* lesser time which the ~~chair~~ *chairperson* of that committee, or the ~~chair's~~ *chairperson's* designee, may in each instance determine.

SEC. 256. Section 4512.5 of the Public Resources Code is amended to read:

4512.5. The Legislature finds and declares all of the following:

(a) State forests play a critical and unique role in the state's carbon balance by sequestering carbon dioxide from the atmosphere and storing it long term as carbon.

(b) According to the scoping plan adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), the state's forests currently are an annual net sequester of five million metric tons of carbon dioxide ~~(5MMTCO2)~~ *(5MMTCO$_2$)*. In fact, the forest sector is the only sector included in the scoping plan that provides a net sequestration of greenhouse gas emissions.

(c) The scoping plan proposes to maintain the current ~~5MMTCO2~~ *5MMTCO$_2$* annual sequestration rate through 2020 by implementing "sustainable management practices," which include potential changes to existing forest practices and land use regulations.

(d) There is increasing evidence that climate change has and will continue to stress forest ecosystems, which underscores the importance of proactively managing forests so that they can adapt to these stressors and remain a net sequester of carbon dioxide.

(e) The board, the department, and the State Air Resources Board should strive to go beyond the status quo sequestration rate and ensure that their policies and regulations reflect the unique role forests play in combating climate change.

SEC. 257. Section 4590 of the Public Resources Code, as amended by Section 2 of Chapter 376 of the Statutes of 2010, is amended to read:

4590. (a) (1) A timber harvesting plan approved on or after January 1, 2012, is effective for a period of not more than three years, unless extended pursuant to paragraph (2).

(2) A timber harvesting plan, on which timber operations have commenced but not been completed, may be extended by amendment for a one-year period in order to complete the timber operations, up to a maximum of two ~~one-year~~ *1-year* extensions, if both of the following occur:

(A) Good cause is shown.

(B) All timber operations are in conformance with the plan, this chapter, and all applicable rules and regulations, upon the filing of the notice of extension as required by this section.

(b) The extension shall apply to any area covered by the plan for which a report has not been submitted under Section 4585. The notice of extension shall be provided to the department not sooner than 30 days, but at least 10 days, prior to the expiration date of the plan. The notice shall include the circumstances that prevented a timely completion of the timber operations under the plan and, consistent with Section 4583, an agreement to comply with this chapter and the rules and regulations of the board as these exist on the date the extension notice is filed.

(c) Stocking work may continue for more than the effective period of the plan under subdivision (a), but shall be completed within five years after the conclusion of other work.

(d) A timber harvesting plan that is approved on or after January 1, 2010, to December 31, 2011, inclusive, may be extended by amendment for a two-year period in order to complete the timber operations, up to a maximum of two ~~two-year~~ *2-year* extensions, if the plan complies with subparagraphs (A) and (B) of paragraph (2) of subdivision (a) and the notice of extension, pursuant to subdivision (b), includes written certification by a registered professional forester that neither of the conditions in subdivision (e) has occurred.

(e) The department shall not approve an extension pursuant to subdivision (d) if either of the following has occurred:

(1) Listed species, as defined in Article 1 (commencing with Section 2050) of Chapter 1.5 of Division 3 of the Fish and Game Code or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), have been discovered in the logging area of the plan since approval of the timber harvesting plan.

(2) Significant physical changes to the harvest area or adjacent areas have occurred since the timber harvesting plan's cumulative impacts were originally assessed.

(f) An extension of a timber harvesting plan on which either of the conditions in subdivision (e) has occurred may be obtained only pursuant to Section 1039 of Title 14 of the California Code of Regulations. Notwithstanding the notice provision of subdivision (b), for purposes of this subdivision the notice of extension shall be provided to the department, not sooner than 140 days, but at least 10 days, prior to the expiration date of the plan.

(g) This section shall become operative on January 1, 2012.

SEC. 258. Section 5073.5 of the Public Resources Code is amended to read:

5073.5. (a) The Governor shall establish a California Recreational Trails Committee to advise the director in the development and coordination of the system. The committee shall consist of seven members appointed by the Governor. Two members shall be selected from the northern, two members from the southern, and two members from the central portions of the state, and one member shall be selected at large. Members shall be selected from lists submitted by private organizations that have a demonstrated interest in the establishment of ~~recreation~~ *recreational* trails. The chair of the committee shall be elected by the members from their membership.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 259. Section 6308 of the Public Resources Code is amended to read:

6308. ~~When~~ *If* an action or proceeding is commenced by or against a county, city, or other political subdivision or agency of the state involving the title to or the boundaries of tidelands or submerged lands that have been or may hereafter be granted to it in trust by the Legislature, the State of California shall be joined as a necessary party defendant in the action or proceeding. Service of summons shall be made upon the ~~chair~~ *Chair* of the State Lands Commission and upon the Attorney General, and the Attorney General shall represent the state in all the actions or proceedings. If judgment is given against the state in the action or proceeding, costs shall not be recovered from the state.

SEC. 260. Section 6362 of the Public Resources Code is amended to read:

6362. (a) There is hereby granted in trust to the City of Pittsburg all of the right, title, and interest of the state held by the state by virtue of its sovereignty in and to all tidelands and submerged lands, whether filled or unfilled, situated within the boundaries of the City of Pittsburg as ~~such~~ *those* boundaries exist on January 1, 2007.

(b) The trust lands shall be held by the trustee and its successors in trust for the benefit of all the people of the state for public trust purposes, as more particularly provided in this article.

(c) This trust grant is subject to the following express conditions:

(1) The use of the trust lands shall be in conformity with the public trust and the plan, and shall be without cost to the state.

(2) The trustee or its successors shall not at any time grant, convey, give, or otherwise alienate the trust lands, or any part ~~thereof~~ *of the trust lands*, to any person, firm, entity, or corporation for any purposes whatsoever. The trustee may lease the trust lands, or any part ~~thereof~~ *of the trust lands*, for limited periods, not exceeding 66 years, for purposes consistent with the public trust and the plan. The trustee may collect and retain rents and other trust revenues from those leases, under rules and regulations adopted by the trustee.

(3) In the management, conduct, operation, and control of the trust lands, or any ~~improvement~~ *improvements*, betterments, or structures ~~thereon~~ *on the trust lands*, the trustee or its successors shall make no illegal discrimination in rates, tolls, or charges for any use or service in connection herewith, nor shall the trustee discriminate against or unlawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.

(4) The state shall have the right to use, without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the trust lands for any vessel or other watercraft or railroad owned or operated by or under contract to the state.

(5) The state shall have the right, at any time in the future, to use the trust lands or any portion ~~thereof~~ *of the trust lands* for any authorized public use without compensation to the trustee, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements have been placed with legal authority upon the property taken by the state, compensation shall be made to the person entitled ~~thereto~~ *to compensation* for the value of the interest in the improvements taken or the damages to that interest.

(6) There is reserved to the people of the state the right to fish in the waters over the trust lands, with the right to convenient access to those waters over the trust lands for that purpose.

(7) There is excepted and reserved to the state all remains or artifacts of archaeological and historical significance and all deposit of minerals, including, but not limited to, all substances specified in Section 6407, in the trust lands, and the right to prospect for, mine, and remove those deposits from the lands.

(8) This grant is made subject to the rights of any and all persons under any title derived from the state or any of its agencies in or to any part of the trust lands.

(9) A survey of the trust lands pursuant to Sections 6358 and 6359 shall be completed and recorded by the commission by January 1, 2013. The cost of the survey and recordation shall be paid according to Sections 6358 and 6359.

(10) Brown's Island is exempted from this act and is *a* not part of the grant.

SEC. 261. Section 7555 of the Public Resources Code is amended to read:

7555. *(a)* In a case ~~where~~ *in which* the state has sold lands acquired by it as swamp and overflowed lands, the person claiming or deraigning title to any lands through or under a purchase ~~thereof~~ *of the lands* from the state may bring suit against the state in a court of competent jurisdiction of the state to establish the boundaries of, and to quiet title to, the land or a portion ~~thereof~~ *of the land*, and may prosecute the suit to final judgment. The complaint in the action shall contain a plat of the property described ~~therein~~ *in the complaint*, which plat shall show the location of the property in respect to a section corner, the location of which is shown on an approved United States government township plat, or in respect to a monument that has been established by reference to a section corner.

(b) Service of summons in the suits shall be made upon the ~~chair~~ *Chair* of the State Lands Commission and upon the Attorney General, and the Attorney General shall represent the state in the suits.

(c) Costs against the state shall not be allowed in the suit.

SEC. 262. Section 14574 of the Public Resources Code, as added by Section 3 of Chapter 5 of the 8th Extraordinary Session of the Statutes of 2010, is amended to read:

14574. (a) (1) A distributor of beverage containers shall pay to the department the redemption payment for every beverage container, other than a refillable beverage container, sold or transferred to a dealer, less 1.5 percent for the distributor's administrative costs.

(2) The payment made by a distributor shall be made not later than the last day of the third month following the sale. The distributor shall make the payment in the form and manner that the department prescribes.

(b) (1) Notwithstanding subdivision (a), if a distributor displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the distributor may make a single annual payment of redemption payments, if the distributor's projected redemption payment for a calendar year totals less than seventy-five thousand dollars ($75,000).

(2) An annual redemption payment made pursuant to this subdivision is due and payable on or before February 1 for every beverage container sold or transferred by the distributor to a dealer in the previous calendar year.

(3) A distributor shall notify the department of its intent to make an annual redemption payment pursuant to this subdivision on or before January 31 of the calendar year for which the payment will be due.

~~(b)~~

(c) This section shall become effective on July 1, 2012.

SEC. 263. Section 29735 of the Public Resources Code is amended to read:

29735. There is hereby created the Delta Protection Commission consisting of 15 members as follows:

(a) One member of the board of supervisors, or his or her designee, of each of the five counties within the Delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of each of those respective counties.

(b) (1) Two elected city council members shall be selected and appointed by city selection committees, from the appropriate regions specified in subparagraphs (A) and (B), one in each of the following areas:

(A) One from the south Delta, consisting of the County of San Joaquin.

(B) One from the west Delta, from either the County of Contra Costa or the County of Solano, on a rotating basis.

(2) One elected city council member shall be selected and appointed by city selection committees, from regional and area councils of government from the north Delta, consisting of the Counties of Yolo and Sacramento.

(3) A city council member appointed pursuant to this subdivision may select a designee for purposes of this subdivision.

(4) Notwithstanding Section 29736, the term of office of the members selected pursuant to this subdivision shall be two years.

(c) One member each from the board of directors of three different reclamation districts that are located within the primary zone who are residents of the Delta, and who are elected by the trustees of reclamation districts pursuant to paragraphs (1), (2), and (3). Each reclamation district may nominate one director to be a member. The member from an area described in paragraph

(1), (2), or (3) shall be selected from among the nominees by a majority vote of the reclamation districts in that area. A member selected pursuant to this subdivision may select a designee for this purpose. For the purposes of this section, each reclamation district shall have one vote. Reclamation district members shall consist of the following:

(1) One member from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973).

(2) One member from an area including the west Delta consisting of the area of *the County of* Contra Costa ~~County~~ within the Delta and within the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).

(3) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).

(d) The Secretary of Food and Agriculture, or the secretary's sole designee.

(e) The executive officer of the State Lands Commission, or the executive officer's sole designee.

(f) The Secretary of the Natural Resources Agency, or his or her sole designee.

(g) The Secretary of Business, Transportation and Housing, or his or her sole designee.

SEC. 264. Section 32330 of the Public Resources Code is amended to read:

32330. The board shall consist of 11 voting members and two nonvoting members, appointed or designated as follows:

(a) The 11 voting members of the board shall consist of all of the following:

(1) The Secretary of the Natural Resources Agency, or his or her designee.

(2) The Director of Finance, or his or her designee.

(3) One member of the board or a designee who is appointed by the Contra Costa County Board of Supervisors, who is a resident of that county.

(4) One member of the board or a designee who is appointed by the Sacramento County Board of Supervisors, who is a resident of that county.

(5) One member of the board or a designee who is appointed by the San Joaquin County Board of Supervisors, who is a resident of that county.

(6) One member of the board or a designee who is appointed by the Solano County Board of Supervisors, who is a resident of that county.

(7) One member of the board or a designee who is appointed by the Yolo County Board of Supervisors, who is a resident of that county.

(8) Two public members appointed by the Governor, subject to confirmation by the Senate.

(9) One public member appointed by the Senate Committee on Rules.

(10) One public member appointed by the Speaker of the Assembly.

(b) The two nonvoting members shall consist of a Member of the Senate, appointed by the Senate Committee on Rules, and a Member of the Assembly, appointed by the Speaker of the Assembly. The members appointed under this subdivision shall meet with the conservancy and participate in its activities to the extent that this participation is not incompatible with their positions as Members of the Legislature. The appointed members shall represent a district that encompasses a portion of the Delta.

(c) Ten liaison advisers who shall serve in an advisory, nonvoting capacity shall consist of all of the following:

(1) One representative of the United States Fish and Wildlife Service, designated by the United States Secretary of the Interior.

(2) One representative of the United States National Marine Fisheries Service, designated by the United States Secretary of Commerce.

(3) One representative of the United States Bureau of Reclamation, designated by the United States Secretary of the Interior.

(4) One representative of the United States Army Corps of Engineers, designated by the Commanding Officer, United States Army Corps of Engineers, South Pacific Division.

(5) A designee of the San Francisco Bay Conservation and Development Commission for coordination purposes.

(6) A designee of the State Coastal Conservancy for coordination purposes.

(7) A designee of the Suisun Resource Conservation District for coordination purposes.

(8) A designee of the Central Valley Flood Protection Board.

(9) A designee of the Yolo Basin Foundation.

(10) A designee of the Delta Protection Commission.

(d) The public members appointed by the Governor shall serve for a term of four years, with a two-term limit.

(e) The locally appointed members and alternates shall serve at the pleasure of the appointing board of supervisors.

(f) The public members appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve for a term of four years, with a two-term limit.

(g) The Members of the Senate and Assembly shall serve at the pleasure of the appointing body.

(h) Alternates *for members appointed pursuant to paragraphs (3) to (7), inclusive, of subdivision (a)* may be appointed by the *respective* county boards of supervisors.

SEC. 265. Section 41800 of the Public Resources Code is amended to read:

41800. (a) Except as provided in subdivision (b), within 120 days from the date of receipt of a countywide or regional integrated waste management plan ~~which~~ *that* the ~~board~~ *department* has determined to be complete, or ~~any~~ *an* element of the plan ~~which~~ *that* the ~~board~~ *department* has determined to be complete, the ~~board~~ *department* shall determine whether the plan or element is in compliance with Article 2 (commencing with Section 40050) of Chapter 1 of Part 1, Chapter 2 (commencing with Section 41000), and Chapter 5 (commencing with Section 41750), and, based upon that determination, the ~~board~~ *department* shall approve, conditionally approve, or disapprove the plan or element.

(b) (1) Within 120 days from the date of receipt of a city, county, or regional agency nondisposal facility element~~, which~~ *that* the ~~board~~ *department* has determined to be complete, and within 60 days from the date of receipt of an amendment to a city, county, or regional agency nondisposal facility element, the ~~board~~ *department* shall determine whether the element, which the ~~board~~ *department* has determined to be complete, or amendment is in compliance with Chapter 4.5 (commencing with Section 41730) and Article 1 (commencing with Section 41780) of Chapter 6, and, based upon that determination, the ~~board~~ *department* shall approve,

conditionally approve, or disapprove the element or amendment within that time period.

(2) In reviewing the element or amendment, the ~~board~~ *department* shall:

(A) Not consider the estimated capacity of the facility or facilities in the element or amendment unless the ~~board~~ *department* determines that this information is needed to determine whether the element or amendment meets the requirements of Article 1 (commencing with Section 41780) of Chapter 6.

(B) Recognize that individual facilities represent portions of local plans or programs that are designed to achieve the diversion requirements of Section 41780 and therefore may not arbitrarily require new or expanded diversion at proposed facilities.

(C) Not disapprove an element or amendment that includes a transfer station or other facility solely because the facility does not contribute ~~towards~~ *toward* the jurisdiction's efforts to comply with Section 41780.

(c) If the ~~board~~ *department* does not act to approve, conditionally approve, or disapprove an element ~~which~~ *that* the ~~board~~ *department* has determined to be complete within 120 days, or an amendment ~~which~~ *that* the ~~board~~ *department* has determined to be complete within 60 days, the ~~board~~ *department* shall be deemed to have approved the element or amendment.

SEC. 266. Section 44820 of the Public Resources Code is amended to read:

44820. (a) Except as provided in subdivision (c), the board shall adopt, by regulation, a permitting, inspection, and enforcement program for the disposal of asbestos containing waste, as specified in Section 25143.7 of the Health and Safety Code, at ~~any~~ *a* solid waste facility or disposal site subject to regulation pursuant to this part. The program may include, but is not limited to, standards and certification requirements for local enforcement agencies, pursuant to which the board may delegate authority for the regulation of asbestos containing waste to local enforcement agencies.

(b) On or before March 1, 1995, or the earliest feasible date thereafter, the board and the Department of Toxic Substances Control shall enter into a memorandum of understanding that defines the enforcement responsibilities of each agency for the disposal of asbestos containing waste at ~~any~~ *a* solid waste disposal

facility or disposal site subject to regulation pursuant to this part. The memorandum of understanding shall be periodically updated to be consistent with each agency's responsibilities pursuant to this section and Chapter 6.5 (commencing with Section 25100) of Division ~~30~~ *20* of the Health and Safety Code.

(c) Until the board has adopted regulations pursuant to subdivision (a), the Department of Toxic Substances Control shall regulate asbestos containing waste at a solid waste facility or disposal site.

(d) Any regulations adopted pursuant to this section shall be deemed emergency regulations and shall be adopted in accordance with the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government ~~Code.)~~ *Code)*. The adoption of these regulations shall be deemed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

SEC. 267. Section 71560 of the Public Resources Code is amended to read:

71560. (a) The endowment may receive charitable contributions or any sources of income that may be lawfully received, including loans from the state.

(b) The endowment shall administer any funds it receives in accordance with this division.

(c) (1) Except as provided in paragraph (2), the endowment shall invest and manage any funds it receives so that the investments shall provide a source of income in perpetuity and the principal amount consisting of charitable contributions and donations, including cost savings donated pursuant to Section ~~6427.3~~ *6618* of the Fish and Game Code, shall not be spent. Any returns on investments made by the endowment are the only funds that shall be available for expenditure by the endowment.

(2) Ten percent of any funds received by the endowment pursuant to Section ~~6427.3~~ *6618* of the Fish and Game Code in a calendar year shall be allocated by the endowment board, pursuant to Section 71552, as grants for projects or programs consistent with the purpose of this chapter within 24 months of receipt of the funds. The majority of these funds shall be granted to state agencies engaged in coastal and ocean protection.

(d) The endowment shall invest and manage any funds it receives in accordance with the Nonprofit Public Benefit

Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(e) The accounts of the endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(f) The financial transactions of the endowment for any fiscal year may be audited by the Bureau of State Audits.

(g) Each recipient of assistance by grant, contract, or loan pursuant to this division shall keep records reasonably necessary to disclose fully the amount of the assistance, the disposition of the assistance, the total cost of the project or undertaking in connection with which the assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and other records that will facilitate an effective audit. Each recipient of a fixed price contract awarded pursuant to competitive bidding procedures is exempt from ~~the requirements of~~ this subdivision.

(h) The endowment, or its authorized representative, and the Bureau of State Audits shall have access to any records necessary for the purpose of auditing and examining all funds received or expended by the recipients of assistance.

SEC. 268. Section 345.5 of the Public Utilities Code is amended to read:

345.5. (a) The Independent System Operator, as a nonprofit, public benefit corporation, shall conduct its operations consistent with applicable state and federal laws and consistent with the interests of the people of the state.

(b) To ensure the reliability of electric service and the health and safety of the public, the Independent System Operator shall manage the transmission grid and related energy markets in a manner that is consistent with all of the following:

(1) Making the most efficient use of available energy resources. For purposes of this section, “available energy resources” include energy, capacity, ancillary services, and demand bid into markets administered by the Independent System Operator. “Available energy resources” do not include a schedule submitted to the Independent System Operator by an electrical corporation or a local publicly owned electric utility to meet its own customer load.

(2) Reducing, to the extent possible, overall economic cost to the state’s consumers.

(3) Applicable state law intended to protect the public's health and the environment.

(4) Maximizing availability of existing electric generation resources necessary to meet the needs of the state's electricity consumers.

(c) The Independent System Operator shall do all of the following:

(1) Consult and coordinate with appropriate state and local agencies to ensure that the Independent System Operator operates in furtherance of state law regarding consumer and environmental protection.

(2) Ensure that the purposes and functions of the Independent System Operator are consistent with the purposes and functions of nonprofit, public benefit corporations in the state, including duties of care and conflict-of-interest standards for officers and directors of a corporation.

(3) Maintain open meeting standards and meeting notice requirements consistent with the general policies of the Bagley-Keene Open ~~Meetings~~ *Meeting* Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of *Division 3 of Title 2 of* the Government Code) and affording the public the greatest possible access, consistent with other duties of the corporation. The Independent System Operator's Open Meeting Policy, as adopted on April 23, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the Bagley-Keene Open ~~Meetings~~ *Meeting* Act than its policy in effect as of May 1, 2002.

(4) Provide public access to corporate records consistent with the general policies of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and affording the public the greatest possible access, consistent with the other duties of the corporation. The Independent System Operator's Information Availability Policy, as adopted on October 22, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the California Public Records Act than its policy in effect as of May 1, 2002.

SEC. 269. Section 2827 of the Public Utilities Code is amended to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering combined with net surplus compensation, co-energy metering, and wind energy co-metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, reduce interconnection and administrative costs for electricity suppliers, and encourage conservation and efficiency.

(b) As used in this section, the following terms have the following meanings:

(1) "Co-energy metering" means a program that is the same in all other respects as a net energy metering program, except that the local publicly owned electric utility has elected to apply a generation-to-generation energy and time-of-use credit formula as provided in subdivision (i).

(2) "Electrical cooperative" means an electrical cooperative as defined in Section 2776.

(3) "Electric utility" means an electrical corporation, a local publicly owned electric utility, or an electrical cooperative, or any other entity, except an electric service provider, that offers electrical service. This section shall not apply to a local publicly owned electric utility that serves more than 750,000 customers and that also conveys water to its customers.

(4) "Eligible customer-generator" means a residential customer, small commercial customer as defined in subdivision (h) of Section 331, or commercial, industrial, or agricultural customer of an electric utility, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, and is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(5) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed

back to the electric grid over a 12-month period as described in subdivisions (c) and (h).

(6) "Net surplus customer-generator" means an eligible customer-generator that generates more electricity during a 12-month period than is supplied by the electric utility to the eligible customer-generator during the same 12-month period.

(7) "Net surplus electricity" means all electricity generated by an eligible customer-generator measured in kilowatthours over a 12-month period that exceeds the amount of electricity consumed by that eligible customer-generator.

(8) "Net surplus electricity compensation" means a per kilowatthour rate offered by the electric utility to the net surplus customer-generator for net surplus electricity that is set by the ratemaking authority pursuant to subdivision (h).

(9) "Ratemaking authority" means, for an electrical corporation or electrical cooperative, the commission, and for a local publicly owned electric utility, the local elected body responsible for setting the rates of the local publicly owned utility.

(10) "Wind energy co-metering" means any wind energy project greater than 50 kilowatts, but not exceeding one megawatt, where the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period is as described in subdivision (h). Wind energy co-metering shall be accomplished pursuant to Section 2827.8.

(c) (1) Every electric utility shall develop a standard contract or tariff providing for net energy metering, and shall make this standard contract or tariff available to eligible customer-generators, upon request, on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 5 percent of the electric utility's aggregate customer peak demand. Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the eligible customer-generator, at the expense of the electric utility, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the eligible customer-generator pursuant to subdivision (h), or to collect solar or wind electric generating system performance

information for research purposes. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. An eligible customer-generator that is receiving service other than through the standard contract or tariff may elect to receive service through the standard contract or tariff until the electric utility reaches the generation limit set forth in this paragraph. Once the generation limit is reached, only eligible customer-generators that had previously elected to receive service pursuant to the standard contract or tariff have a right to continue to receive service pursuant to the standard contract or tariff. Eligibility for net energy metering does not limit an eligible customer-generator's eligibility for any other rebate, incentive, or credit provided by the electric utility, or pursuant to any governmental program, including rebates and incentives provided pursuant to the California Solar Initiative.

(2) An electrical corporation shall include a provision in the net energy metering contract or tariff requiring that any customer with an existing electrical generating facility and meter who enters into a new net energy metering contract shall provide an inspection report to the electrical corporation, unless the electrical generating facility and meter have been installed or inspected within the previous three years. The inspection report shall be prepared by a ~~California licensed~~ *California-licensed* contractor who is not the owner or operator of the facility and meter. A ~~California licensed~~ *California-licensed* electrician shall perform the inspection of the electrical portion of the facility and meter.

(3) (A) On an annual basis, beginning in 2003, every electric utility shall make available to the ratemaking authority information on the total rated generating capacity used by eligible customer-generators that are customers of that provider in the provider's service area and the net surplus electricity purchased by the electric utility pursuant to this section.

(B) An electric service provider operating pursuant to Section 394 shall make available to the ratemaking authority the information required by this paragraph for each eligible

customer-generator that is their customer for each service area of an electric corporation, local publicly owned electric utility, or electrical cooperative, in which the eligible customer-generator has net energy metering.

(C) The ratemaking authority shall develop a process for making the information required by this paragraph available to electric utilities, and for using that information to determine when, pursuant to paragraphs (1) and (4), an electric utility is not obligated to provide net energy metering to additional eligible customer-generators in its service area.

(4) An electric utility is not obligated to provide net energy metering to additional eligible customer-generators in its service area when the combined total peak demand of all electricity used by eligible customer-generators served by all the electric utilities in that service area furnishing net energy metering to eligible customer-generators exceeds 5 percent of the aggregate customer peak demand of those electric utilities.

(5) By January 1, 2010, the commission, in consultation with the Energy Commission, shall submit a report to the Governor and the Legislature on the costs and benefits of net energy metering, wind energy co-metering, and co-energy metering to participating customers and nonparticipating customers and with options to replace the economic costs and benefits of net energy metering, wind energy co-metering, and co-energy metering with a mechanism that more equitably balances the interests of participating and nonparticipating customers, and that incorporates ~~the~~ findings ~~of the report~~ on *the* economic and environmental costs and benefits of net metering ~~required by subdivision (n)~~.

(d) Every electric utility shall make all necessary forms and contracts for net energy metering and net surplus electricity compensation service available for download from the Internet.

(e) (1) Every electric utility shall ensure that requests for establishment of net energy metering and net surplus electricity compensation are processed in a time period not exceeding that for similarly situated customers requesting new electric service, but not to exceed 30 working days from the date it receives a completed application form for net energy metering service or net surplus electricity compensation, including a signed interconnection agreement from an eligible customer-generator and the electric

inspection clearance from the governmental authority having jurisdiction.

(2) Every electric utility shall ensure that requests for an interconnection agreement from an eligible customer-generator are processed in a time period not to exceed 30 working days from the date it receives a completed application form from the eligible customer-generator for an interconnection agreement.

(3) If an electric utility is unable to process a request within the allowable timeframe pursuant to paragraph (1) or (2), it shall notify the eligible customer-generator and the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(f) (1) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric service provider that does not provide distribution service for the direct transactions, the electric utility that provides distribution service for the eligible customer-generator is not obligated to provide net energy metering or net surplus electricity compensation to the customer.

(2) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric service provider, and the customer is an eligible customer-generator, the electric utility that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering and net surplus electricity compensation in an amount set by the ratemaking authority.

(g) Except for the time-variant kilowatthour pricing portion of any tariff adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 2851, each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of an eligible solar or wind electrical generating facility. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the

customer-generator's net kilowatthour consumption over a 12-month period, without regard to the eligible customer-generator's choice as to from whom it purchases electricity that is not self-generated. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or any other charge that would increase an eligible customer-generator's costs beyond those of other customers who are not eligible customer-generators in the rate class to which the eligible customer-generator would otherwise be assigned if the customer did not own, lease, rent, or otherwise operate an eligible solar or wind electrical generating facility is contrary to the intent of this section, and shall not form a part of net energy metering contracts or tariffs.

(h) For eligible customer-generators, the net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric utility, and at each anniversary date thereafter, be billed for electricity used during that 12-month period. The electric utility shall determine if the eligible residential or small commercial customer-generator was a net consumer or a net surplus customer-generator during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric utility exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric utility shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that 12-month period. The compensation owed for the eligible residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under contracts or tariffs employing "baseline" and "over baseline" rates,

any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned ~~to~~, or be eligible for, if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatthours generated shall be valued at the same price per kilowatthour as the electric utility would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatthours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatthour as the electric utility would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under contracts or tariffs employing time-of-use rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned, or be eligible for, if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric utility would charge for retail kilowatthour sales during that same time-of-use period. If the eligible customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (1) of subdivision (c) shall apply.

(C) For all eligible residential and small commercial customer-generators and for each billing period, the net balance of moneys owed to the electric utility for net consumption of electricity or credits owed to the eligible customer-generator for net generation of electricity shall be carried forward as a monetary value until the end of each 12-month period. For all eligible commercial, industrial, and agricultural customer-generators, the net balance of moneys owed shall be paid in accordance with the electric utility's normal billing cycle, except that if the eligible commercial, industrial, or agricultural customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period as a monetary value, calculated according to the procedures set forth in this section, and appear as a credit on the eligible commercial, industrial, or agricultural

customer-generator's account, until the end of the annual period when paragraph (3) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric utility during that same period, the eligible customer-generator is a net surplus customer-generator and the electric utility shall, upon an affirmative election by the eligible customer-generator, either (A) provide net surplus electricity compensation for any net surplus electricity generated during the prior 12-month period, or (B) allow the eligible customer-generator to apply the net surplus electricity as a credit for kilowatthours subsequently supplied by the electric utility to the surplus customer-generator. For an eligible customer-generator that does not affirmatively elect to receive service pursuant to net surplus electricity compensation, the electric utility shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator not affirmatively electing to receive service pursuant to net surplus electricity compensation shall not be owed any compensation for the net surplus electricity unless the electric utility enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours. Every electric utility shall, by January 31, 2010, provide notice to eligible customer-generators that they are eligible to receive net surplus electricity compensation for net surplus electricity, that they must elect to receive net surplus electricity compensation, and that the 12-month period commences when the electric utility receives the eligible customer-generator's election. The commission may, for an electric utility that is an electrical corporation or electrical cooperative, adopt requirements for providing notice and the manner by which eligible customer-generators may elect to receive net surplus electricity compensation.

(4) (A) The ratemaking authority shall, by January 1, 2011, establish a net surplus electricity compensation valuation to compensate the net surplus customer-generator for the value of net surplus electricity generated by the net surplus customer-generator. The commission shall establish the valuation in a ratemaking proceeding. The ratemaking authority for a local publicly owned electric utility shall establish the valuation in a public proceeding. The net surplus electricity compensation

valuation shall be established so as to provide the net surplus customer-generator just and reasonable compensation for the value of net surplus electricity, while leaving other ratepayers unaffected. The ratemaking authority shall determine whether the compensation will include, where appropriate justification exists, either or both of the following components:

(i) The value of the electricity itself.

(ii) The value of the renewable attributes of the electricity.

(B) In establishing the rate pursuant to subparagraph (A), the ratemaking authority shall ensure that the rate does not result in a shifting of costs between solar customer-generators and other bundled service customers.

(5) (A) Upon adoption of the net surplus electricity compensation rate by the ratemaking authority, any renewable energy credit, as defined in Section 399.12, for net surplus electricity purchased by the electric utility shall belong to the electric utility. Any renewable energy credit associated with electricity generated by the eligible customer-generator that is utilized by the eligible customer-generator shall remain the property of the eligible customer-generator.

(B) Upon adoption of the net surplus electricity compensation rate by the ratemaking authority, the net surplus electricity purchased by the electric utility shall count toward the electric utility's renewables portfolio standard annual procurement targets for the purposes of paragraph (1) of subdivision (b) of Section 399.15, or for a local publicly owned electric utility, the renewables portfolio standard annual procurement targets established pursuant to Section 387.

(6) The electric utility shall provide every eligible residential or small commercial customer-generator with net electricity consumption and net surplus electricity generation information with each regular bill. That information shall include the current monetary balance owed the electric utility for net electricity consumed, or the net surplus electricity generated, since the last 12-month period ended. Notwithstanding this subdivision, an electric utility shall permit that customer to pay monthly for net energy consumed.

(7) If an eligible residential or small commercial customer-generator terminates the customer relationship with the electric utility, the electric utility shall reconcile the eligible

customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(8) If an electric service provider or electric utility providing net energy metering to a residential or small commercial customer-generator ceases providing that electric service to that customer during any 12-month period, and the customer-generator enters into a new net energy metering contract or tariff with a new electric service provider or electric utility, the 12-month period, with respect to that new electric service provider or electric utility, shall commence on the date on which the new electric service provider or electric utility first supplies electric service to the customer-generator.

(i) Notwithstanding any other provisions of this section, the following provisions shall apply to an eligible customer-generator with a capacity of more than 10 kilowatts, but not exceeding one megawatt, that receives electric service from a local publicly owned electric utility that has elected to utilize a co-energy metering program unless the local publicly owned electric utility chooses to provide service for eligible customer-generators with a capacity of more than 10 kilowatts in accordance with subdivisions (g) and (h):

(1) The eligible customer-generator shall be required to utilize a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide time-of-use measurements of electricity flow, and the customer shall take service on a time-of-use rate schedule. If the existing meter of the eligible customer-generator is not a time-of-use meter or is not capable of measuring total flow of energy in both directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is both time-of-use and able to measure total electricity flow in both directions. This subdivision shall not restrict the ability of an eligible customer-generator to utilize any economic incentives provided by a governmental agency or an electric utility to reduce its costs for purchasing and installing a time-of-use meter.

(2) The consumption of electricity from the local publicly owned electric utility shall result in a cost to the eligible

customer-generator to be priced in accordance with the standard rate charged to the eligible customer-generator in accordance with the rate structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility. The generation of electricity provided to the local publicly owned electric utility shall result in a credit to the eligible customer-generator and shall be priced in accordance with the generation component, established under the applicable structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility.

(3) All costs and credits shall be shown on the eligible customer-generator's bill for each billing period. In any months in which the eligible customer-generator has been a net consumer of electricity calculated on the basis of value determined pursuant to paragraph (2), the customer-generator shall owe to the local publicly owned electric utility the balance of electricity costs and credits during that billing period. In any billing period in which the eligible customer-generator has been a net producer of electricity calculated on the basis of value determined pursuant to paragraph (2), the local publicly owned electric utility shall owe to the eligible customer-generator the balance of electricity costs and credits during that billing period. Any net credit to the eligible customer-generator of electricity costs may be carried forward to subsequent billing periods, provided that a local publicly owned electric utility may choose to carry the credit over as a kilowatthour credit consistent with the provisions of any applicable contract or tariff, including any differences attributable to the time of generation of the electricity. At the end of each 12-month period, the local publicly owned electric utility may reduce any net credit due to the eligible customer-generator to zero.

(j) A solar or wind turbine electrical generating system, or a hybrid system of both, used by an eligible customer-generator shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories, including Underwriters Laboratories and, where applicable, rules of the commission regarding safety and reliability. A customer-generator whose solar or wind turbine electrical generating system, or a hybrid system of both, meets those standards and rules shall not

be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

(k) If the commission determines that there are cost or revenue obligations for an electrical corporation, as defined in Section 218, that may not be recovered from customer-generators acting pursuant to this section, those obligations shall remain within the customer class from which any shortfall occurred and may not be shifted to any other customer class. Net energy metering and co-energy metering customers shall not be exempt from the public goods charges imposed pursuant to Article 7 (commencing with Section 381), Article 8 (commencing with Section 385), or Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its report to the Legislature, the commission shall examine different methods to ensure that the public goods charges remain nonbypassable.

(*l*) A net energy metering, co-energy metering, or wind energy co-metering customer shall reimburse the Department of Water Resources for all charges that would otherwise be imposed on the customer by the commission to recover bond-related costs pursuant to an agreement between the commission and the Department of Water Resources pursuant to Section 80110 of the Water Code, as well as the costs of the department equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer. The commission shall incorporate the determination into an existing proceeding before the commission, and shall ensure that the charges are nonbypassable. Until the commission has made a determination regarding the nonbypassable charges, net energy metering, co-energy metering, and wind energy co-metering shall continue under the same rules, procedures, terms, and conditions as were applicable on December 31, 2002.

(m) In implementing the requirements of subdivisions (k) and (*l*), an eligible customer-generator shall not be required to replace its existing meter except as set forth in paragraph (1) of subdivision (c), nor shall the electric utility require additional measurement of usage beyond that which is necessary for customers in the same rate class as the eligible customer-generator.

(n) It is the intent of the Legislature that the Treasurer incorporate net energy metering, including net surplus electricity compensation, co-energy metering, and wind energy co-metering

projects undertaken pursuant to this section as sustainable building methods or distributive energy technologies for purposes of evaluating low-income housing projects.

SEC. 270. Section 2851 of the Public Utilities Code is amended to read:

2851. (a) In implementing the California Solar Initiative, the commission shall do all of the following:

(1) The commission shall authorize the award of monetary incentives for up to the first megawatt of alternating current generated by solar energy systems that meet the eligibility criteria established by the ~~State~~ Energy ~~Resources Conservation and Development~~ Commission pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code. The commission shall determine the eligibility of a solar energy system, as defined in Section 25781 of the Public Resources Code, to receive monetary incentives until the time the ~~State~~ Energy ~~Resources Conservation and Development~~ Commission establishes eligibility criteria pursuant to Section 25782. Monetary incentives shall not be awarded for solar energy systems that do not meet the eligibility criteria. The incentive level authorized by the commission shall decline each year following implementation of the California Solar Initiative, at a rate of no less than an average of 7 percent per year, and shall be zero as of December 31, 2016. The commission shall adopt and publish a schedule of declining incentive levels no less than 30 days in advance of the first decline in incentive levels. The commission may develop incentives based upon the output of electricity from the system, provided those incentives are consistent with the declining incentive levels of this paragraph and the incentives apply to only the first megawatt of electricity generated by the system.

(2) The commission shall adopt a performance-based incentive program so that by January 1, 2008, 100 percent of incentives for solar energy systems of 100 kilowatts or greater and at least 50 percent of incentives for solar energy systems of 30 kilowatts or greater are earned based on the actual electrical output of the solar energy systems. The commission shall encourage, and may require, performance-based incentives for solar energy systems of less than 30 kilowatts. Performance-based incentives shall decline at a rate of no less than an average of 7 percent per year. In developing the performance-based incentives, the commission may:

(A) Apply performance-based incentives only to customer classes designated by the commission.

(B) Design the performance-based incentives so that customers may receive a higher level of incentives than under incentives based on installed electrical capacity.

(C) Develop financing options that help offset the installation costs of the solar energy system, provided that this financing is ultimately repaid in full by the consumer or through the application of the performance-based rebates.

(3) By January 1, 2008, the commission, in consultation with the ~~State~~ Energy ~~Resources Conservation and Development~~ Commission, shall require reasonable and cost-effective energy efficiency improvements in existing buildings as a condition of providing incentives for eligible solar energy systems, with appropriate exemptions or limitations to accommodate the limited financial resources of low-income residential housing.

(4) Notwithstanding subdivision (g) of Section 2827, the commission may develop a time-variant tariff that creates the maximum incentive for ratepayers to install solar energy systems so that the system's peak electricity production coincides with California's peak electricity demands and that ~~assures~~ *ensures* that ratepayers receive due value for their contribution to the purchase of solar energy systems and customers with solar energy systems continue to have an incentive to use electricity efficiently. In developing the time-variant tariff, the commission may exclude customers participating in the tariff from the rate cap for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, as required by Section 80110 of the Water Code. Nothing in this paragraph authorizes the commission to require time-variant pricing for ratepayers without a solar energy system.

(b) Notwithstanding subdivision (a), in implementing the California Solar Initiative, the commission may authorize the award of monetary incentives for solar thermal and solar water heating devices, in a total amount up to one hundred million eight hundred thousand dollars ($100,800,000).

(c) (1) In implementing the California Solar Initiative, the commission shall not allocate more than fifty million dollars ($50,000,000) to research, development, and demonstration that explores solar technologies and other distributed generation

technologies that employ or could employ solar energy for generation or storage of electricity or to offset natural gas usage. Any program that allocates additional moneys to research, development, and demonstration shall be developed in collaboration with the Energy Commission to ensure there is no duplication of efforts, and adopted by the commission through a rulemaking or other appropriate public proceeding. Any grant awarded by the commission for research, development, and demonstration shall be approved by the full commission at a public meeting. This subdivision does not prohibit the commission from continuing to allocate moneys to research, development, and demonstration pursuant to the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000, as modified pursuant to Section 379.6.

(2) The Legislature finds and declares that a program that provides a stable source of monetary incentives for eligible solar energy systems will encourage private investment sufficient to make solar technologies cost effective.

(3) On or before June 30, 2009, and by June ~~30th~~ *30* of every year thereafter, the commission shall submit to the Legislature an assessment of the success of the California Solar Initiative program. That assessment shall include the number of residential and commercial sites that have installed solar thermal devices for which an award was made pursuant to subdivision (b) and the dollar value of the award, the number of residential and commercial sites that have installed solar energy systems, the electrical generating capacity of the installed solar energy systems, the cost of the program, total electrical system benefits, including the effect on electrical service rates, environmental benefits, how the program affects the operation and reliability of the electrical grid, how the program has affected peak demand for electricity, the progress made toward reaching the goals of the program, whether the program is on schedule to meet the program goals, and recommendations for improving the program to meet its goals. If the commission allocates additional moneys to research, development, and demonstration that explores solar technologies and other distributed generation technologies pursuant to paragraph (1), the commission shall include in the assessment submitted to the Legislature, a description of the program, a summary of each

award made or project funded pursuant to the program, including the intended purposes to be achieved by the particular award or project, and the results of each award or project.

(d) (1) The commission shall not impose any charge upon the consumption of natural gas, or upon natural gas ratepayers, to fund the California Solar Initiative.

(2) Notwithstanding any other provision of law, any charge imposed to fund the program adopted and implemented pursuant to this section shall be imposed upon all customers not participating in the California Alternate Rates for Energy (CARE) or family electric rate assistance (FERA) programs as provided in paragraph (2), including those residential customers subject to the rate cap required by Section 80110 of the Water Code for existing baseline quantities or usage up to 130 percent of existing baseline quantities of electricity.

(3) The costs of the program adopted and implemented pursuant to this section may not be recovered from customers participating in the California Alternate Rates for Energy or CARE program established pursuant to Section 739.1, except to the extent that program costs are recovered out of the nonbypassable system benefits charge authorized pursuant to Section 399.8.

(e) In implementing the California Solar Initiative, the commission shall ensure that the total cost over the duration of the program does not exceed three billion three hundred fifty million eight hundred thousand dollars ($3,350,800,000). The financial components of the California Solar Initiative shall consist of the following:

(1) Programs under the supervision of the commission funded by charges collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company. The total cost over the duration of these programs shall not exceed two billion one hundred sixty-six million eight hundred thousand dollars ($2,166,800,000) and includes moneys collected directly into a tracking account for support of the California Solar Initiative and moneys collected into other accounts that are used to further the goals of the California Solar Initiative.

(2) Programs adopted, implemented, and financed in the amount of seven hundred eighty-four million dollars ($784,000,000), by charges collected by local publicly owned electric utilities pursuant

to Section 387.5. Nothing in this subdivision shall give the commission power and jurisdiction with respect to a local publicly owned electric utility or its customers.

(3) Programs for the installation of solar energy systems on new construction, administered by the ~~State~~ Energy ~~Resources Conservation and Development~~ Commission pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, and funded by nonbypassable charges in the amount of four hundred million dollars ($400,000,000), collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company pursuant to Article 15 (commencing with Section 399).

SEC. 271. Section 8381 of the Public Utilities Code is amended to read:

8381. (a) For purposes of this section, "electrical consumption data" means data about a customer's electrical usage that is made available as part of an advanced metering infrastructure, and includes the name, account number, or residence of the customer.

(b) (1) A local publicly owned electric utility shall not share, disclose, or otherwise make accessible to any third party a customer's electrical consumption data, except as provided in subdivision (e) or upon the consent of the customer.

(2) A local publicly owned electric utility shall not sell a customer's electrical consumption data or any other personally identifiable information for any purpose.

(3) The local publicly owned electric utility or its contractors shall not provide an incentive or discount to the customer for accessing the customer's electrical consumption data without the prior consent of the customer.

(4) A local publicly owned electric utility that utilizes an advanced metering infrastructure that allows a customer to access the customer's electrical consumption data shall ensure that the customer has an option to access that data without being required to agree to the sharing of his or her personally identifiable information, including electrical consumption data, with a third party.

(c) If a local publicly owned electric utility contracts with a third party for a service that allows a customer to monitor his or her electricity usage, and that third party uses the data for a secondary commercial purpose, the contract between the local

publicly owned electric utility and the third party shall provide that the third party prominently discloses that secondary commercial purpose to the customer.

(d) A local publicly owned electric utility shall use reasonable security procedures and practices to protect a customer's unencrypted electrical consumption data from unauthorized access, destruction, use, modification, or disclosure, and ~~prohibits~~ *prohibit* the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's consent.

(e) (1) Nothing in this section shall preclude a local publicly owned electric utility from using customer aggregate electrical consumption data for analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer.

(2) Nothing in this section shall preclude a local publicly owned electric utility from disclosing a customer's electrical consumption data to a third party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, provided, for contracts entered into after January 1, 2011, that the utility has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

(3) Nothing in this section shall preclude a local publicly owned electric utility from disclosing electrical consumption data as required under state or federal law.

(f) If a customer chooses to disclose his or her electrical consumption data to a third party that is unaffiliated with, and has no other business relationship with, the local publicly owned electric utility, the utility shall not be responsible for the security of that data, or its use or misuse.

SEC. 272. Section 100351 of the Public Utilities Code is amended to read:

100351. Whenever the district acquires existing facilities from a publicly or privately owned utility, either in proceedings in eminent domain or otherwise, that has a pension plan in operation, members and beneficiaries of ~~such~~ *the* pension plan shall continue to have the rights, privileges, benefits, obligations and status with

respect to ~~such~~ *the* established system. The outstanding obligations and liabilities of ~~such~~ *the* public utility by reason of ~~such~~ *the* pension plan shall be considered and taken into account and allowance made ~~therfor~~ *therefor* in the purchase price of ~~such~~ *the* public utility. The persons entitled to pension benefits as provided for in this section and the benefits which are provided shall be specified in the agreement or order by which any public utility is acquired by the district.

SEC. 273. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowners' exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption or would be eligible for the exemption except that the

property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's

replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement dwelling the base year value of the claimant's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, a community property owner, or a present beneficiary of a trust subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value

determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) (1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

(A) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(B) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(ii) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original property.

(D) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(E) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(F) Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (h).

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of the original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where

the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, "land owned by the claimant" includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a

leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, "land owned by the claimant" includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred ~~and~~ five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred ~~and~~ ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the "replacement dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the

adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowners' exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind. "Person" includes an individual who is the present beneficiary of a trust.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(13) For the purposes of this section, property is "substantially damaged or destroyed by misfortune or calamity" if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result

of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a claim described in subparagraph (F) of paragraph (1) of subdivision (f), the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have

received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989, and January 1, 2002, pursuant to paragraph (4) of subdivision (b) of Section 62.1, those claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim,

shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

(3) This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(4) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(*l*) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

(m) (1) The amendments made to subdivisions (b) and (g) ~~of this section~~ by Chapter 613 of the Statutes of 2001 shall apply:

(A) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(B) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but not to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

(C) With respect to the transfer of base year value by a severely and permanently disabled person, to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(2) The property tax relief provided by this section in accordance with this subdivision shall apply prospectively only commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(n) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be

available for inspection by the claimant or the claimant's spouse, the claimant's or the claimant's spouse's legal representative, the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary, and the executor or administrator of the claimant's or the claimant's spouse's estate.

SEC. 274. Section 7104 of the Revenue and Taxation Code is amended to read:

7104. (a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7326.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2003–04 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter during the period commencing on July 1, 2003, and ending on June 30, 2008, the Controller shall make all of the following transfers and apportionments from the funds identified for transfer under paragraph (2) of subdivision (b) in the following order:

(1) To the Traffic Congestion Relief Fund created in the State Treasury by Section 14556.5 of the Government Code, the sum of one hundred sixty-nine million five hundred thousand dollars ($169,500,000), except that the transfer for the final quarter shall be ninety-three million four hundred thousand dollars ($93,400,000), for a total transfer of three billion three hundred thirteen million nine hundred thousand dollars ($3,313,900,000).

(2) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the amount remaining

after the transfer required under paragraph (1). Funds transferred under this paragraph shall be made available as follows:

(A) To the Department of Transportation, 50 percent for purposes of subdivision (a) or (b) of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(B) To the Controller, 25 percent for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code. For the 2007–08 fiscal year, these funds are continuously appropriated to the Controller for purposes of this subparagraph.

(C) To the Controller, 25 percent for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code. For the 2007–08 fiscal year, these funds are continuously appropriated to the Controller for purposes of this subparagraph.

(3) To the Department of Transportation for expenditure for programming for transportation capital improvement projects subject to all of the provisions governing the State Transportation Improvement Program, 40 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, the transfer shall be 80 percent of the amount remaining after the transfer required under paragraph (1).

(4) To the Controller for apportionment to the counties, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be allocated in accordance with the following formulas:

(A) Seventy-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained

county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(5) To the Controller for apportionment to cities, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under paragraph (4) or (5) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under paragraph (4) or (5) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) “Maintenance” means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) “Reconstruction” includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) “Storm damage repair” is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and

damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to paragraph (4) or (5) of subdivision (c).

(2) In order to receive any allocation pursuant to paragraph (4) or (5) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government ~~Code~~ *Code)*, may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, inclusive, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do

not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under paragraph (4) or (5) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in paragraph (4) or (5) of subdivision (c).

(g) The Los Angeles County Metropolitan Transportation Authority shall give first priority for using its share of the funds made available under subparagraphs (B) and (C) of paragraph (2) of subdivision (c) to providing the levels of bus service mandated under the consent decree entered into by the authority on October 29, 1996, in the case of Labor/Community Strategy Center, et al. v. Los Angeles County Metropolitan Transportation Authority.

(h) (1) For the purpose of allocating funds under paragraph (4) or (5) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(2) The amendments made to Section 11005.3 by the act adding this paragraph shall not apply to a population determination under paragraph (1).

(i) This section shall become inoperative on the date that all encumbrances incurred for the projects funded under paragraph (3) of subdivision (c) have been liquidated or on June 30, 2008, whichever date is later, and as of the January 1 immediately following that date is repealed.

SEC. 275. Section 17561 of the Revenue and Taxation Code is amended to read:

17561. (a) Section 469(c)(7) of the Internal Revenue Code, relating to special rules for taxpayers in real property business, shall not apply.

(b) Section 469(d)(2) of the Internal Revenue Code, relating to passive activity credits, is 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 *former* Section 17057 *(relating to clinical testing expenses)*.

(4) The credit for low-income housing allowed by Section 17058.

(c) Section 469(g)(1)(A) of the Internal Revenue Code is modified to provide that if all gain or loss realized on the disposition of the taxpayer's entire interest in any passive activity (or former passive activity) is recognized, the excess of—

(1) The sum of—

(A) Any loss from that activity for that taxable year (determined after application of Section 469(b) of the Internal Revenue Code), plus

(B) Any loss realized on that disposition, over

(2) Net income or gain for the taxable year from all passive activities (determined without regard to losses described in paragraph (1)),

shall be treated as a loss which is not from a passive activity.

(d) For purposes of applying the provisions of Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars ($25,000) offset for rental real estate activities, the dollar limitation for the credit allowed under Section 17058 (relating to

low-income housing) shall be equal to seventy-five thousand dollars ($75,000) in lieu of the amount specified in Section 469(i)(2) of the Internal Revenue Code.

(e) Section 502 of the Tax Reform Act of 1986 ~~(Public Law~~ *(P.L.* 99-514) shall apply.

(f) For taxable years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

SEC. 276. Section 18639 of the Revenue and Taxation Code is amended to read:

18639. (a) (1) In addition to those reports required under paragraph (8) of subdivision (c) of Section 18631, information returns shall be required, at the time and in the form and manner and to the extent that the Franchise Tax Board may prescribe, from both of the following:

(A) Every person who makes payments of exempt-interest dividends, as described in Section 852(b)(5) of the Internal Revenue Code, that are not exempt-interest dividends, as described in Section 17145 of ~~the Revenue and Taxation Code~~ *this code*, aggregating ten dollars ($10) or more to any person, other than to any person described in paragraph (2), during any calendar year.

(B) Every person who receives payments of interest as a nominee and who makes payments aggregating ten dollars ($10) or more during any calendar year to any other person, other than to any person described in paragraph (2), with respect to the interest so received. For purposes of this paragraph, “interest” is limited to interest on any obligation if the interest is exempt from tax under Section 103(a) of the Internal Revenue Code or if the interest is exempt from tax, without regard to the identity of the holder, under any other provision of Title 26 of the United States Code, but which is not exempt from income tax under Part 10 (commencing with Section 17001).

(2) For purposes of this subdivision, a person shall not be required to make a report pursuant to paragraph (1) if the person receiving the payment is any of the following:

(A) A corporation.

(B) An organization exempt from taxation under Section 23701 or an individual retirement plan.

(C) The United States or any wholly owned agency or instrumentality thereof.

(D) A state, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing.

(E) A foreign government, a political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing.

(F) An international organization or any wholly owned agency or instrumentality thereof.

(G) A foreign central bank of issue.

(H) A dealer in securities or commodities required to register under the laws of the United States or a state, the District of Columbia, or possession of the United States.

(I) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(J) An investment company, as defined in Section 80a-3 of the United States Code, registered at all times during the taxable year under the Investment Company Act of 1940.

(K) A common trust fund, as defined in Section 17671.

(L) Any trust that is exempt from tax under Section 664(c) of ~~Title 15 of~~ the Internal Revenue Code.

(b) Every person required to make a return under this section shall also furnish a statement to each person whose name is set forth in the return, as required to do so by the Internal Revenue Code.

SEC. 277. Section 19141 of the Revenue and Taxation Code is amended to read:

19141. Upon certification by the Secretary of State pursuant to subdivision (a) of Section 2204 or subdivision (a) of Section ~~17563~~ *17653* of the Corporations Code, the Franchise Tax Board shall assess a penalty of two hundred fifty dollars ($250). Upon certification by the Secretary of State pursuant to subdivision (a) of Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, the Franchise Tax Board shall assess a penalty of fifty dollars ($50). Any penalty assessed under this section shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest, and penalties are collected by the

Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivision (e) or (f) of Section 2204, subdivision (e) of Section 6810, or subdivision (e) of Section 8810 of the Corporations Code.

SEC. 278. Section 19191 of the Revenue and Taxation Code is amended to read:

19191. (a) The Franchise Tax Board may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified member, or qualified beneficiary as defined in Section 19192, that is binding on both the Franchise Tax Board and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(b) The Franchise Tax Board shall do all of the following:

(1) Provide guidelines and establish procedures for qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to apply for voluntary disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Implement procedures for accepting applications for voluntary disclosure agreements through the National Nexus Program administered by the Multistate Tax Commission.

(4) For purposes of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(A) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary was established.

(B) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272 or otherwise.

(C) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the qualified entity or qualified shareholder, qualified member, or qualified beneficiary activities were immune from taxation by this state.

(D) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary.

(E) Demonstrations of good faith on the part of the qualified entity.

(F) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application of a voluntary disclosure agreement within 120 days of receipt.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as authorized in subdivision (a) and based on the criteria set forth in paragraph (4).

(c) Before any voluntary disclosure agreement becomes binding, the Franchise Tax Board, itself, shall approve the agreement in the following manner:

(1) The Executive Officer and Chief Counsel of the Franchise Tax Board shall recommend and submit the voluntary disclosure agreement to the Franchise Tax Board for approval.

(2) Each voluntary disclosure agreement recommendation shall be submitted in a manner as to maintain the anonymity of the taxpayer applying for the voluntary disclosure agreement.

(3) Any recommendation for approval of a voluntary disclosure agreement shall be approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of that recommendation to the board.

(4) Any recommendation of a voluntary disclosure agreement that is not either approved or disapproved by the board within 45 days of the submission of that recommendation shall be deemed approved.

(5) Disapproval of a recommendation of a voluntary disclosure agreement shall be made only by a majority vote of the Franchise Tax Board.

(6) The members of the Franchise Tax Board shall not participate in any voluntary disclosure agreement except as provided in this subdivision.

(d) The voluntary disclosure agreement entered into by the Franchise Tax Board and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary as provided for in subdivision (a) shall to the extent applicable specify that:

(1) The Franchise Tax Board shall with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as provided in paragraph (4), (6), or (9) of subdivision (a) of Section 19192:

(A) Waive its authority under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) to assess or propose to assess taxes, additions to tax, fees, or penalties with respect to each taxable year ending prior to six years from the signing date of the voluntary disclosure agreement.

(B) With respect to each of the six taxable years ending immediately preceding the signing date of the voluntary disclosure agreement, based on its discretion, agree to waive any or all of the following:

(i) Any penalty related to a failure to make and file a return, as provided in Section 19131.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in Section 19132.

(iii) Any addition to tax related to an underpayment of estimated tax, as provided in Section 19136.

(iv) Any penalty related to Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, as provided in Section 19141 of this code.

(v) Any penalty related to a failure to furnish information or maintain records, as provided in Section 19141.5.

(vi) Any addition to tax related to an underpayment of tax imposed under Part 11 (commencing with Section 23001), as provided in Section 19142.

(vii) Any penalty related to a partnership required to file a return under Section 18633, as provided in Section 19172.

(viii) Any penalty related to a failure to file information returns, as provided in Section 19183.

(ix) Any penalty related to relief from contract voidability, as provided in Section 23305.1.

(2) The qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall:

(A) With respect to each of the six taxable years ending immediately preceding the signing date of the written agreement:

(i) Voluntarily and fully disclose on the qualified entity's application all material facts pertinent to the qualified entity's, shareholder's, member's, or beneficiary's liability for any taxes

imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

(ii) Except as provided in paragraph (3), within 30 days from the signing date of the voluntary disclosure agreement:

(I) File all returns required under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001).

(II) Pay in full any tax, interest, fee, and penalties, other than those penalties specifically waived by the Franchise Tax Board under the terms of the voluntary disclosure agreement, imposed under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) in a manner as may be prescribed by the Franchise Tax Board. Paragraph (1) of subdivision (f) of Section ~~25153~~ *23153* shall not apply to qualified entities admitted into the voluntary disclosure program.

(B) Agree to comply with all franchise and income tax laws of this state in subsequent taxable years by filing all returns required and paying all amounts due under this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001).

(3) The Franchise Tax Board may extend the time for filing returns and paying amounts due to 120 days from the signing date of the voluntary disclosure agreement or to the latest extended due date of the return for a taxable year for which relief is granted, whichever is later.

(e) No addition to tax under Sections 19136 or 19142 shall be made for any underpayment of estimated tax attributable to the underpayment of an installment of estimated tax due before the signing date of the voluntary disclosure agreement.

(f) The amendments to this section made by Chapter 954 of the Statutes of 1996 shall apply to taxable years beginning on or after January 1, 1997.

(g) The amendments to this section made by Chapter 543 of the Statutes of 2001 shall apply to voluntary disclosure agreements entered into on or after January 1, 2002.

(h) The amendments to this section made by Chapter 543 of the Statutes of 2001 shall apply to voluntary disclosure agreements entered into on or after January 1, 2005.

(i) The amendments to this section made by the act adding this subdivision shall apply to voluntary disclosure agreements entered into on or after January 1, 2011.

SEC. 279. Section 19192 of the Revenue and Taxation Code is amended to read:

19192. For purposes of this article, the following terms have the following meanings:

(a) (1) "Qualified entity" means an entity that is all of the following:

(A) A corporation, as defined in Section 23038, a limited liability company, as defined in subdivision (d) of Section 17941, or a qualified trust, as defined in paragraph (7).

(B) An entity, including any predecessors to the entity, that previously has never filed a return with the Franchise Tax Board pursuant to this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23011).

(C) An entity, including any predecessors to the entity, that previously has not been the subject of an inquiry by the Franchise Tax Board with respect to liability for any of the taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

(D) An entity that voluntarily comes forward prior to any unilateral contact from the Franchise Tax Board, makes application for a voluntary disclosure agreement in a form and manner prescribed by the Franchise Tax Board, and makes a full and accurate statement of its activities in this state for the six immediately preceding taxable years.

(2) (A) Notwithstanding paragraph (1), a qualified entity does not include any of the following:

(i) An entity that is organized and existing under the laws of this state.

(ii) An entity that is qualified or registered with the office of the Secretary of State.

(iii) An entity that maintains and staffs a permanent facility in this state.

(B) For purposes of this paragraph, the storing of materials, goods, or products in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in this state.

(3) "Qualified shareholder" means an individual that is all of the following:

(A) A nonresident on the signing date of the voluntary disclosure agreement.

(B) A shareholder of an "S" corporation (defined in Section 23800) that has applied for a voluntary disclosure agreement under this article under which all material facts pertinent to the shareholder's liability would be disclosed on ~~that "S"~~ *that "S"* corporation's voluntary disclosure agreement as required under clause (i) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 19191.

(4) Notwithstanding paragraph (3), subparagraph (B) of paragraph (1) of subdivision (d) of Section 19191 shall not apply to any of the six taxable years immediately preceding the signing date that the qualified shareholder was a California resident required to file a California tax return, nor to any penalties or additions to tax attributable to income other than the California source income from the "S" corporation that filed an application under this article.

(5) "Qualified member" means an individual, corporation, or limited liability company that is all of the following:

(A) (i) In the case of an individual, is a nonresident on the signing date of the voluntary disclosure agreement.

(ii) In the case of a corporation or limited liability company, is not either of the following:

(I) Organized under the laws of this state.

(II) Qualified or registered with the office of the Secretary of State.

(B) A member of a limited liability company that has applied for a voluntary disclosure agreement under this article under which all material facts pertinent to the member's liability would be disclosed on that limited liability company's voluntary disclosure agreement as required under clause (i) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 19191.

(6) Notwithstanding paragraph (5), in the case of a qualified member who is an individual, subparagraph (B) of paragraph (1) of subdivision (d) of Section 19191 shall not apply to any of the six taxable years immediately preceding the signing date that the qualified member was a California resident required to file a California tax return, nor to any penalties or additions to tax attributable to income other than the California source income from the limited liability company that filed an application under this article.

(7) "Qualified trust" means a trust that meets both of the following:

(A) (i) The administration of the trust has never been performed in California.

(ii) For purposes of this subparagraph, administrative activities performed in California would be deemed to be performed outside of California if those activities were inconsequential to the overall administration of the trust.

(B) For six taxable years ending immediately preceding the signing date of the voluntary disclosure agreement, the trust has had no resident beneficiaries (other than a beneficiary whose interest in that trust is contingent~~:~~*;* a beneficiary's trust interest is not contingent if the trust has made any distribution to the resident beneficiary at any time during the six taxable years ending immediately preceding the signing date of the voluntary disclosure agreement).

(8) "Qualified beneficiary" means an individual who is all of the following:

(A) A nonresident on the signing date of the voluntary disclosure agreement and a nonresident during each of the six taxable years ending immediately preceding the signing date of the voluntary disclosure agreement.

(B) A beneficiary of a qualified trust that has applied for a voluntary disclosure agreement under this article under which all material facts pertinent to the beneficiary's liability would be disclosed on that trust's voluntary disclosure agreement as required under clause (i) of subparagraph (A) of paragraph (2) of subdivision (d) of Section 19191.

(9) Notwithstanding paragraph (8), subparagraph (B) of paragraph (1) of subdivision (d) of Section 19191 shall not apply to any penalties or additions to tax attributable to income other than income from the trust that filed an application under this article.

(b) "Signing date" of the voluntary disclosure agreement means the date on which a person duly authorized by the Franchise Tax Board signs the agreement.

(c) The amendments to this section made by Chapter 954 of the Statutes of 1996 shall apply to taxable years beginning on or after January 1, 1997.

(d) The amendments to this section made by Chapter 543 of the Statutes of 2001 shall apply to voluntary disclosure agreements entered into on or after January 1, 2002.

(e) The amendments to this section made by the act adding this subdivision shall apply to voluntary disclosure agreements entered into on or after January 1, 2005.

SEC. 280. Section 19194 of the Revenue and Taxation Code is amended to read:

19194. (a) Notwithstanding any other provision of this article, a voluntary disclosure agreement shall be null and void in the event that the Franchise Tax Board finds that with respect to the agreement any of the following circumstances exist:

(1) The qualified entity has misrepresented any material fact in applying for the voluntary disclosure agreement or in entering into the agreement.

(2) The qualified entity fails to file any returns for any taxable year covered by the voluntary disclosure period agreed upon on or before the due date prescribed under the terms of the agreement in accordance with paragraph (2) of subdivision (d) of Section 19191.

(3) (A) The qualified entity fails to pay in full any tax, fee, penalty, or interest due within the time prescribed under the terms of the voluntary disclosure agreement in accordance with paragraph (2) of subdivision (d) of Section 19191 or to pay any installments thereof due within the time prescribed under the terms of an installment payment arrangement in accordance with subparagraph (B).

(B) The Franchise Tax Board may enter into an installment payment arrangement, which shall include provisions for interest, in lieu of the full payment required under paragraph (2) of subdivision (d) of Section 19191. Failure by the qualified entity to comply with the terms of the installment payment arrangement shall also render the voluntary disclosure ~~arrangement~~ *agreement* null and void.

(C) Notwithstanding subparagraphs (A) and (B), an applicant applying for an installment payment arrangement shall have the same time periods as identified in paragraphs (1) and (2) of subdivision (d) of Section 19008 to pay in full any tax, fee, penalty, or interest due.

(4) The tax shown by the qualified entity on its tax return filed for any taxable year covered by the voluntary disclosure agreement, including any amount shown on a qualified amended return, as defined in Section 1.6664-2(c)(3) of Title 26 of the Code of Federal Regulations, understates by 10 percent or more the tax imposed under either Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) and the qualified entity cannot demonstrate to the satisfaction of the Franchise Tax Board that a good faith effort was made to accurately compute the tax.

(5) The qualified entity fails to begin to prospectively comply with all franchise and income tax laws of this state as agreed upon under the terms of the voluntary disclosure agreement in accordance with paragraph (2) of subdivision (d) of Section 19191.

(b) In the event that the Franchise Tax Board finds that the qualified entity has failed to comply under any of the circumstances which render the voluntary disclosure agreement null and void as set forth in subdivision (a), the limitation on assessment for any taxable years and the waiver of any penalties as provided for in paragraph (1) of subdivision (d) and subdivision (h) of Section 19191 shall not be binding on the Franchise Tax Board.

(c) The amendments to this section made by the act adding this subdivision shall apply to voluntary disclosure agreements entered into on or after January 1, 2011.

SEC. 281. Section 23153 of the Revenue and Taxation Code is amended to read:

23153. (a) Every corporation described in subdivision (b) shall be subject to the minimum franchise tax specified in subdivision (d) from the earlier of the date of incorporation, qualification, or commencing to do business within this state, until the effective date of dissolution or withdrawal as provided in Section 23331 or, if later, the date the corporation ceases to do business within the limits of this state.

(b) Unless expressly exempted by this part or the California Constitution, subdivision (a) shall apply to each of the following:

(1) Every corporation that is incorporated under the laws of this state.

(2) Every corporation that is qualified to transact intrastate business in this state pursuant to Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(3) Every corporation that is doing business in this state.

(c) The following entities are not subject to the minimum franchise tax specified in this section:

(1) Credit unions.

(2) Nonprofit cooperative associations organized pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code that have been issued the certificate of the board of supervisors prepared pursuant to Section 54042 of the Food and Agricultural Code. The association shall be exempt from the minimum franchise tax for five consecutive taxable years, commencing with the first taxable year for which the certificate is issued pursuant to subdivision (b) of Section 54042 of the Food and Agricultural Code. This paragraph only applies to nonprofit cooperative associations organized on or after January 1, 1994.

(d) (1) Except as provided in paragraph (2), paragraph (1) of subdivision (f) of Section 23151, paragraph (1) of subdivision (f) of Section 23181, and paragraph (1) of subdivision (c) of Section 23183, corporations subject to the minimum franchise tax shall pay annually to the state a minimum franchise tax of eight hundred dollars ($800).

(2) The minimum franchise tax shall be twenty-five dollars ($25) for each of the following:

(A) A corporation formed under the laws of this state whose principal business when formed was gold mining, which is inactive and has not done business within the limits of the state since 1950.

(B) A corporation formed under the laws of this state whose principal business when formed was quicksilver mining, which is inactive and has not done business within the limits of the state since 1971, or has been inactive for a period of 24 consecutive months or more.

(3) For purposes of paragraph (2), a corporation shall not be considered to have done business if it engages in *business* other than mining.

(e) Notwithstanding subdivision (a), for taxable years beginning on or after January 1, 1999, and before January 1, 2000, every "qualified new corporation" shall pay annually to the state a minimum franchise tax of five hundred dollars ($500) for the second taxable year. This subdivision shall apply to any corporation that is a qualified new corporation and is incorporated on or after January 1, 1999, and before January 1, 2000.

(1) The determination of the gross receipts of a corporation, for purposes of this subdivision, shall be made by including the gross receipts of each member of the commonly controlled group, as defined in Section 25105, of which the corporation is a member.

(2) "Gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(3) "Qualified new corporation" means a corporation that is incorporated under the laws of this state or has qualified to transact intrastate business in this state, that begins business operations at or after the time of its incorporation and that reasonably estimates that it will have gross receipts, less returns and allowances, reportable to this state for the taxable year of one million dollars ($1,000,000) or less. "Qualified new corporation" does not include any corporation that began business operations as a sole proprietorship, a partnership, or any other form of business entity prior to its incorporation. This subdivision shall not apply to any corporation that reorganizes solely for the purpose of reducing its minimum franchise tax.

(4) This subdivision shall not apply to limited partnerships, as defined in Section 17935, limited liability companies, as defined in Section 17941, limited liability partnerships, as ~~defined~~ *described* in Section 17948, charitable organizations, as described in Section 23703, regulated investment companies, as defined in Section 851 of the Internal Revenue Code, real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, real estate mortgage investment conduits, as defined in Section 860D of the Internal Revenue Code, qualified Subchapter S subsidiaries, as defined in Section 1361(b)(3) of the Internal Revenue Code, or to the formation of any subsidiary corporation, to the extent applicable.

(5) For any taxable year beginning on or after January 1, 1999, and before January 1, 2000, if a corporation has qualified to pay five hundred dollars ($500) for the second taxable year under this subdivision, but in its second taxable year, the corporation's gross receipts, as determined under paragraphs (1) and (2), exceed one million dollars ($1,000,000), an additional tax in the amount equal to three hundred dollars ($300) for the second taxable year shall

be due and payable by the corporation on the due date of its return, without regard to extension, for that year.

(f) (1) Notwithstanding subdivision (a), every corporation that incorporates or qualifies to do business in this state on or after January 1, 2000, shall not be subject to the minimum franchise tax for its first taxable year.

(2) This subdivision shall not apply to limited partnerships, as defined in Section 17935, limited liability companies, as defined in Section 17941, limited liability partnerships, as ~~defined~~ *described* in Section 17948, charitable organizations, as described in Section 23703, regulated investment companies, as defined in Section 851 of the Internal Revenue Code, real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, real estate mortgage investment conduits, as defined in Section 860D of the Internal Revenue Code, and qualified Subchapter S subsidiaries, as defined in Section 1361(b)(3) of the Internal Revenue Code, to the extent applicable.

(3) This subdivision shall not apply to any corporation that reorganizes solely for the purpose of avoiding payment of its minimum franchise tax.

(g) Notwithstanding subdivision (a), a domestic corporation, as defined in Section 167 of the Corporations Code, that files a certificate of dissolution in the office of the Secretary of State pursuant to subdivision (b) of Section 1905 of the Corporations Code, prior to its amendment by the act amending this subdivision, and that does not thereafter do business shall not be subject to the minimum franchise tax for taxable years beginning on or after the date of that filing.

(h) The minimum franchise tax imposed by paragraph (1) of subdivision (d) shall not be increased by the Legislature by more than 10 percent during any calendar year.

(i) (1) Notwithstanding subdivision (a), a corporation that is a small business solely owned by a deployed member of the United States Armed Forces shall not be subject to the minimum franchise tax for any taxable year the owner is deployed and the corporation operates at a loss or ceases operation.

(2) The Franchise Tax Board may promulgate regulations as necessary or appropriate to carry out the purposes of this subdivision, including a definition for “ceases operation.”

(3) For the purposes of this subdivision, all of the following definitions apply:

(A) "Deployed" means being called to active duty or active service during a period when a Presidential Executive order specifies that the United States is engaged in combat or homeland defense. "Deployed" does not include either of the following:

(i) Temporary duty for the sole purpose of training or processing.

(ii) A permanent change of station.

(B) "Operates at a loss" means negative net income as defined in Section 24341.

(C) "Small business" means a corporation with total income from all sources derived from, or attributable, to the state of two hundred fifty thousand dollars ($250,000) or less.

(4) This subdivision shall become inoperative for taxable years beginning on or after January 1, 2018.

SEC. 282. Section 23663 of the Revenue and Taxation Code is amended to read:

23663. (a) (1) Notwithstanding any other law to the contrary, for each taxable year beginning on or after July 1, 2008, any credit allowed to a taxpayer under this chapter that is an ~~"eligible~~ *eligible* credit ~~(within the meaning of paragraph (2) of subdivision (b))~~ may be assigned by that taxpayer to any ~~"eligible assignee" (within the meaning of paragraph (3) of subdivision (b))~~ *eligible assignee*.

(2) A credit assigned under paragraph (1) may only be applied by the eligible assignee against the "tax" *(as defined in Section 23036)* of the eligible assignee in a taxable year beginning on or after January 1, 2010.

(3) Except as specifically provided in this section, following an assignment of any eligible credit under this section, the eligible assignee shall be treated as if it originally earned the assigned credit.

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

(1) "Affiliated corporation" means a corporation that is a member of a commonly controlled group as defined in Section 25105.

(2) "Eligible credit" shall mean:

(A) Any credit earned by the taxpayer in a taxable year beginning on or after July 1, 2008, or

(B) Any credit earned in any taxable year beginning before July 1, 2008, that is eligible to be carried forward to the taxpayer's first taxable year beginning on or after July 1, 2008, under the provisions of this part.

(3) "Eligible assignee" shall mean any affiliated corporation that is properly treated as a member of the same combined reporting group pursuant to Section 25101 or 25110 as the taxpayer assigning the eligible credit as of:

(A) In the case of credits earned in taxable years beginning before July 1, 2008:

(i) June 30, 2008, and

(ii) The last day of the taxable year of the assigning taxpayer in which the eligible credit is assigned.

(B) In the case of credits earned in taxable years beginning on or after July 1, 2008.

(i) The last day of the first taxable year in which the credit was allowed to the taxpayer, and

(ii) The last day of the taxable year of the assigning taxpayer in which the eligible credit is assigned.

(c) (1) The election to assign any credit under subdivision (a) shall be irrevocable once made, and shall be made by the taxpayer allowed that credit on its original return for the taxable year in which the assignment is made.

(2) The taxpayer assigning any credit under this section shall reduce the amount of its unused credit by the face amount of any credit assigned under this section, and the amount of the assigned credit shall not be available for application against the assigning taxpayer's "tax" in any taxable year, nor shall it thereafter be included in the amount of any credit carryover of the assigning taxpayer.

(3) The eligible assignee of any credit under this section may apply all or any portion of the assigned credits against the "tax" ~~(as defined in Section 23036)~~ of the eligible assignee for the taxable year in which the assignment occurs, or any subsequent taxable year, subject to any carryover period limitations that apply to the assigned credit and also subject to the limitation in paragraph (2) of subdivision (a).

(4) In no case may the eligible assignee sell, otherwise transfer, or thereafter assign the assigned credit to any other taxpayer.

(d) (1) No consideration shall be required to be paid by the eligible assignee to the assigning taxpayer for assignment of any credit under this section.

(2) In the event that any consideration is paid by the eligible assignee to the assigning taxpayer for the transfer of an eligible credit under this section, then:

(A) No deduction shall be allowed to the eligible assignee under this part with respect to any amounts so paid, and

(B) No amounts so received by the assigning taxpayer shall be includable in gross income under this part.

(e) (1) The Franchise Tax Board shall specify the form and manner in which the election required under this section shall be made, as well as any necessary information that shall be required to be provided by the taxpayer assigning the credit to the eligible assignee.

(2) Any taxpayer who assigns any credit under this section shall report any information, in the form and manner specified by the Franchise Tax Board, necessary to substantiate any credit assigned under this section and verify the assignment and subsequent application of any assigned credit.

(3) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to paragraphs (1) and (2).

(4) The Franchise Tax Board may issue any regulations necessary to implement the purposes of this section, including any regulations necessary to specify the treatment of any assignment that does not comply with the requirements of this section (including, for example, where the taxpayer and eligible assignee are not properly treated as members of the same combined reporting group on any of the dates specified in paragraph (3) of subdivision (b).

(f) (1) The taxpayer and the eligible assignee shall be jointly and severally liable for any tax, addition to tax, or penalty that results from the disallowance, in whole or in part, of any eligible credit assigned under this section.

(2) Nothing in this section shall limit the authority of the Franchise Tax Board to audit either the assigning taxpayer or the

eligible assignee with respect to any eligible credit assigned under this section.

(g) On or before June 30, 2013, the Franchise Tax Board shall report to the Joint Legislative Budget Committee, the Legislative Analyst, and the relevant policy committees of both houses on the effects of this section. The report shall include, but need not be limited to, the following:

(1) An estimate of use of credits in the 2010 and 2011 taxable years by eligible taxpayers.

(2) An analysis of effect of this section on expanding business activity in the state related to these credits.

(3) An estimate of the resulting tax revenue loss to the state.

(4) The report shall cover all credits covered in this section, but focus on the credits related to research and development, economic incentive areas, and low income housing.

SEC. 283. Section 23685 of the Revenue and Taxation Code, as added by Section 9 of Chapter 10 of the 3rd Extraordinary Session of the Statutes of 2009, is amended to read:

23685. (a) (1) For taxable years beginning on or after January 1, 2011, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, in an amount equal to the applicable percentage, as specified in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California.

(2) The credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision (g) for the qualified motion picture, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable percentage shall be:

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in

California where the qualified motion picture is a television series that relocated to California or an independent film.

(b) For purposes of this section:

(1) "Ancillary product" means any article for sale to the public that contains a portion of, or any element of, the qualified motion picture.

(2) "Budget" means an estimate of all expenses paid or incurred during the production period of a qualified motion picture. It shall be the same budget used by the qualified taxpayer and production company for all qualified motion picture purposes.

(3) "Clip use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

(4) "Credit certificate" means the certificate issued by the California Film Commission pursuant to subparagraph (C) of paragraph (2) of subdivision (g).

(5) (A) "Employee fringe benefits" means the amount allowable as a deduction under this part to the qualified taxpayer involved in the production of the qualified motion picture, exclusive of any amounts contributed by employees, for any year during the production period with respect to any of the following:

(i) Employer contributions under any pension, profit-sharing, annuity, or similar plan.

(ii) Employer-provided coverage under any accident or health plan for employees.

(iii) The employer's cost of life or disability insurance provided to employees.

(B) Any amount treated as wages under clause (i) of subparagraph (A) of paragraph (18) shall not be taken into account under this paragraph.

(6) "Independent film" means a motion picture with a minimum budget of one million dollars ($1,000,000) and a maximum budget of ten million dollars ($10,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

(7) "Licensing" means any grant of rights to distribute the qualified motion picture, in whole or in part.

(8) "New use" means any use of a motion picture in a medium other than the medium for which it was initially created.

(9) (A) "Postproduction" means the final activities in a qualified motion picture's production, including editing, foley recording, automatic dialogue replacement, sound editing, scoring and music editing, beginning and end credits, negative cutting, negative processing and duplication, the addition of sound and visual effects, soundmixing, film-to-tape transfers, encoding, and color correction.

(B) "Postproduction" does not include the manufacture or shipping of release prints.

(10) "Preproduction" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment, or is greenlit, with, for example, the establishment of a dedicated production office, the hiring of key crew members, and includes, but is not limited to, activities that include location scouting and execution of contracts with vendors of equipment and stage space.

(11) "Principal photography" means the phase of production during which the motion picture is actually shot, as distinguished from preproduction and postproduction.

(12) "Production period" means the period beginning with preproduction and ending upon completion of postproduction.

(13) "Qualified entity" means a personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code, a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.

(14) (A) "Qualified individual" means any individual who performs services during the production period in an activity related to the production of a qualified motion picture.

(B) "Qualified individual" shall not include either of the following:

(i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.

(ii) Any ~~5 percent~~ *5-percent* owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.

(15) (A) "Qualified motion picture" means a motion picture that is produced for distribution to the general public, regardless of medium that is one of the following:

(i) A feature with a minimum production budget of one million dollars ($1,000,000) and a maximum production budget of seventy-five million dollars ($75,000,000).

(ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars ($500,000).

(iii) A new television series produced in California with a minimum production budget of one million dollars ($1,000,000) licensed for original distribution on basic cable.

(iv) An independent film.

(v) A television series that relocated to California.

(B) To qualify as a "qualified motion picture," all of the following conditions shall be satisfied:

(i) At least 75 percent of the production days occur wholly in California or 75 percent of the production budget is incurred for payment for services performed within the state and the purchase or rental of property used within the state.

(ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer's application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is "completed" when the process of postproduction has been finished.

(iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.

(iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by the California Film Commission, but no later than 180 days after the date of that approval.

(C) For the purposes of subparagraph (A), in computing the total wages paid or incurred for the production of a qualified motion picture, all amounts paid or incurred by all persons or entities that share in the costs of the qualified motion picture shall be aggregated.

(D) "Qualified motion picture" shall not include commercial advertising, music videos, a motion picture produced for private noncommercial use, such as weddings, graduations, or as part of an educational course and made by students, a news program, current events or public events program, talk show, game show, sporting event or activity, awards show, telethon or other production that solicits funds, reality television program, clip-based

programming if more than 50 percent of the content is comprised of licensed footage, documentaries, variety programs, daytime dramas, strip shows, one-half hour (air time) episodic television shows, or any production that falls within the recordkeeping requirements of Section 2257 of Title 18 of the United States Code.

(16) "Qualified expenditures" means amounts paid or incurred to purchase or lease tangible personal property used within this state in the production of a qualified motion picture and payments, including qualified wages, for services performed within this state in the production of a qualified motion picture.

(17) (A) "Qualified taxpayer" means a taxpayer who has paid or incurred qualified expenditures and has been issued a credit certificate by the California Film Commission pursuant to subdivision (g).

(B) (i) In the case of any passthrough entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the passthrough entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "passthrough entity" means any entity taxed as a partnership or "S" corporation.

(ii) In the case of an "S" corporation, the credit allowed under this section shall not be used by an "S" corporation as a credit against a tax imposed under Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2.

(18) (A) "Qualified wages" means all of the following:

(i) Any wages required to be reported under Section 13050 of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within California.

(ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clause (i).

(iii) Any payments made to a qualified entity for services performed in California by qualified individuals within the meaning of paragraph (14).

(iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within California by that qualified individual.

(B) "Qualified wages" shall not include any of the following:

(i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.

(ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.

(iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.

(iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music composers, music supervisors, producers, and performers, other than background actors with no scripted lines.

(19) "Residual compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.

(20) "Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.

(21) "Secondary markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.

(22) "Television series that relocated to California" means a television series, without regard to episode length or initial media exhibition, that filmed all of its prior season or seasons outside of California and for which the taxpayer certifies that the credit provided pursuant to this section is the primary reason for relocating to California.

(c) (1) Notwithstanding subdivision (i) of Section 23036, relating to credits attributable to a passthrough business entity, in the case where the credit allowed by this section exceeds the taxpayer's tax liability computed under this part, a qualified taxpayer may elect to assign any portion of the credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in

subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, and "voting common stock" is substituted for "voting stock" wherever it appears in the section.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the qualified taxpayer that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the returns of qualified taxpayer and a qualified taxpayer's affiliated corporations that assign and receive the credits.

(3) (A) Notwithstanding any other law, a qualified taxpayer, may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.

(B) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(4) In the case where the credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(5) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.

(6) A party that has been assigned or acquired tax credits under this paragraph shall be subject to the requirements of this section.

(7) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(8) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.

(9) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this subdivision.

(d) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:

(1) Identification of each qualified individual.

(2) The specific start and end dates of production.

(3) The total wages paid.

(4) The amount of qualified wages paid to each qualified individual.

(5) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.

(6) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.

(7) Information to substantiate its qualified expenditures.

(8) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.

(e) The California Film Commission may prescribe rules and regulations to carry out the purposes of this section including any rules and regulations necessary to establish procedures, processes, requirements, and rules identified in or required to implement this section. The regulations shall include provisions to set aside a percentage of annual credit allocations for independent films.

(f) If the qualified taxpayer fails to provide the copyright registration number as required in paragraph (5) of subdivision

(d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.

(g) For purposes of this section, the California Film Commission shall do the following:

(1) On or after July 1, 2009, and before July 1, 2014, allocate tax credits to applicants.

(A) Establish a procedure for applicants to file with the commission a written application, on a form jointly prescribed by the commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:

(i) The budget for the motion picture production.

(ii) The number of production days.

(iii) A financing plan for the production.

(iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.

(v) Any other information deemed relevant by the commission or the Franchise Tax Board.

(B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.

(C) Determine and designate applicants who meet the requirements of this section.

(D) Process and approve, or reject, all applications on a first-come-first-served basis.

(E) Subject to the annual cap established as provided in subdivision (i), allocate an aggregate amount of credits under this section and Section 17053.85, and allocate any carryover of unallocated credits from prior years.

(2) Certify tax credits allocated to qualified taxpayers.

(A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant.

(B) Establish audit requirements that must be satisfied before a credit certificate ~~maybe~~ *may be* issued by the California Film Commission.

(C) Issue a credit certificate to a qualified taxpayer upon completion of the qualified motion picture, reflecting the credit amount allocated after qualified expenditures have been verified under this section. The amount of a credit shown in the credit

certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.

(h) The California Film Commission shall provide the Franchise Tax Board and the board annually with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.

(i) (1) The aggregate amount of credits that may be allocated in any fiscal year pursuant to this section and Section 17053.85 shall be an amount equal to the sum of all of the following:

(A) One hundred million dollars ($100,000,000) in credits for the 2009–10 fiscal year and each fiscal year thereafter, through and including the 2013–14 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

(C) The amount of previously allocated credits not certified.

(2) If the amount of credits applied for in any particular fiscal year exceeds the aggregate amount of tax credits authorized to be allocated for under this section, such excess shall be treated as having been applied for on the first day of the subsequent fiscal year. However, credits may not be allocated from a fiscal year other than the fiscal year in which the credit was originally applied for or the immediately succeeding fiscal year.

(3) Notwithstanding the foregoing, the *California* Film Commission shall set aside up to ten million *dollars* ($10,000,000) of tax credits each fiscal year for independent films allocated in accordance with rules and regulations developed pursuant to subdivision (e).

(4) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution and may be passed by not less than two-thirds of all Members elected to each of the two houses of the Legislature.

(j) The ~~film commission~~ *California Film Commission* shall have the authority to allocate tax credits in accordance with this section and in accordance with any regulations prescribed pursuant to subdivision (e) upon adoption.

SEC. 284. Section 23685 of the Revenue and Taxation Code, as added by Section 9 of Chapter 17 of the 3rd Extraordinary Session of the Statutes of 2009, is amended to read:

23685. (a) (1) For taxable years beginning on or after January 1, 2011, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, in an amount equal to the applicable percentage, as specified in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California.

(2) The credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision (g) for the qualified motion picture, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable percentage shall be:

(A) Twenty percent of the qualified expenditures attributable to the production of a qualified motion picture in California.

(B) Twenty-five percent of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California or an independent film.

(b) For purposes of this section:

(1) "Ancillary product" means any article for sale to the public that contains a portion of, or any element of, the qualified motion picture.

(2) "Budget" means an estimate of all expenses paid or incurred during the production period of a qualified motion picture. It shall be the same budget used by the qualified taxpayer and production company for all qualified motion picture purposes.

(3) "Clip use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

(4) "Credit certificate" means the certificate issued by the California Film Commission pursuant to subparagraph (C) of paragraph (2) of subdivision (g).

(5) (A) "Employee fringe benefits" means the amount allowable as a deduction under this part to the qualified taxpayer involved in the production of the qualified motion picture, exclusive of any amounts contributed by employees, for any year during the production period with respect to any of the following:

(i) Employer contributions under any pension, profit-sharing, annuity, or similar plan.

(ii) Employer-provided coverage under any accident or health plan for employees.

(iii) The employer's cost of life or disability insurance provided to employees.

(B) Any amount treated as wages under clause (i) of subparagraph (A) of paragraph (18) shall not be taken into account under this paragraph.

(6) "Independent film" means a motion picture with a minimum budget of one million dollars ($1,000,000) and a maximum budget of ten million dollars ($10,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

(7) "Licensing" means any grant of rights to distribute the qualified motion picture, in whole or in part.

(8) "New use" means any use of a motion picture in a medium other than the medium for which it was initially created.

(9) (A) "Postproduction" means the final activities in a qualified motion picture's production, including editing, foley recording, automatic dialogue replacement, sound editing, scoring and music editing, beginning and end credits, negative cutting, negative processing and duplication, the addition of sound and visual effects, soundmixing, film-to-tape transfers, encoding, and color correction.

(B) "Postproduction" does not include the manufacture or shipping of release prints.

(10) "Preproduction" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment, or is greenlit, with, for example, the establishment of a dedicated production office, the hiring of key crew members, and includes,

but is not limited to, activities that include location scouting and execution of contracts with vendors of equipment and stage space.

(11) "Principal photography" means the phase of production during which the motion picture is actually shot, as distinguished from preproduction and postproduction.

(12) "Production period" means the period beginning with preproduction and ending upon completion of postproduction.

(13) "Qualified entity" means a personal service corporation as defined in Section 269A(b)(1) of the Internal Revenue Code, a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.

(14) (A) "Qualified individual" means any individual who performs services during the production period in an activity related to the production of a qualified motion picture.

(B) "Qualified individual" shall not include either of the following:

(i) Any individual related to the qualified taxpayer as described in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal Revenue Code.

(ii) Any ~~5 percent~~ *5-percent* owner, as defined in Section 416(i)(1)(B) of the Internal Revenue Code, of the qualified taxpayer.

(15) (A) "Qualified motion picture" means a motion picture that is produced for distribution to the general public, regardless of medium that is one of the following:

(i) A feature with a minimum production budget of one million dollars ($1,000,000) and a maximum production budget of seventy-five million dollars ($75,000,000).

(ii) A movie of the week or miniseries with a minimum production budget of five hundred thousand dollars ($500,000).

(iii) A new television series produced in California with a minimum production budget of one million dollars ($1,000,000) licensed for original distribution on basic cable.

(iv) An independent film.

(v) A television series that relocated to California.

(B) To qualify as a "qualified motion picture," all of the following conditions shall be satisfied:

(i) At least 75 percent of the production days occur wholly in California or 75 percent of the production budget is incurred for

payment for services performed within the state and the purchase or rental of property used within the state.

(ii) Production of the qualified motion picture is completed within 30 months from the date on which the qualified taxpayer's application is approved by the California Film Commission. For purposes of this section, a qualified motion picture is "completed" when the process of postproduction has been finished.

(iii) The copyright for the motion picture is registered with the United States Copyright Office pursuant to Title 17 of the United States Code.

(iv) Principal photography of the qualified motion picture commences after the date on which the application is approved by the California Film Commission, but no later than 180 days after the date of that approval.

(C) For the purposes of subparagraph (A), in computing the total wages paid or incurred for the production of a qualified motion picture, all amounts paid or incurred by all persons or entities that share in the costs of the qualified motion picture shall be aggregated.

(D) "Qualified motion picture" shall not include commercial advertising, music videos, a motion picture produced for private noncommercial use, such as weddings, graduations, or as part of an educational course and made by students, a news program, current events or public events program, talk show, game show, sporting event or activity, awards show, telethon or other production that solicits funds, reality television program, clip-based programming if more than 50 percent of the content is comprised of licensed footage, documentaries, variety programs, daytime dramas, strip shows, one-half hour (air time) episodic television shows, or any production that falls within the recordkeeping requirements of Section 2257 of Title 18 of the United States Code.

(16) "Qualified expenditures" means amounts paid or incurred to purchase or lease tangible personal property used within this state in the production of a qualified motion picture and payments, including qualified wages, for services performed within this state in the production of a qualified motion picture.

(17) (A) "Qualified taxpayer" means a taxpayer who has paid or incurred qualified expenditures and has been issued a credit certificate by the California Film Commission pursuant to subdivision (g).

(B) (i) In the case of any passthrough entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the passthrough entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "passthrough entity" means any entity taxed as a partnership or "S" corporation.

(ii) In the case of an "S" corporation, the credit allowed under this section shall not be used by an "S" corporation as a credit against a tax imposed under Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2.

(18) (A) "Qualified wages" means all of the following:

(i) Any wages required to be reported under Section 13050 of the Unemployment Insurance Code that were paid or incurred by any taxpayer involved in the production of a qualified motion picture with respect to a qualified individual for services performed on the qualified motion picture production within California.

(ii) The portion of any employee fringe benefits paid or incurred by any taxpayer involved in the production of the qualified motion picture that are properly allocable to qualified wage amounts described in clause (i).

(iii) Any payments made to a qualified entity for services performed in California by qualified individuals within the meaning of paragraph (14).

(iv) Remuneration paid to an independent contractor who is a qualified individual for services performed within California by that qualified individual.

(B) "Qualified wages" shall not include any of the following:

(i) Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, or residual compensation, or the creation of any ancillary product, including, but not limited to, a soundtrack album, toy, game, trailer, or teaser.

(ii) Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround, or any rights thereto.

(iii) Expenses, including wages, related to financing, overhead, marketing, promotion, or distribution of a qualified motion picture.

(iv) Expenses, including wages, paid per person per qualified motion picture for writers, directors, music directors, music

composers, music supervisors, producers, and performers, other than background actors with no scripted lines.

(19) "Residual compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.

(20) "Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.

(21) "Secondary markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.

(22) "Television series that relocated to California" means a television series, without regard to episode length or initial media exhibition, that filmed all of its prior season or seasons outside of California and for which the taxpayer certifies that the credit provided pursuant to this section is the primary reason for relocating to California.

(c) (1) Notwithstanding subdivision (i) of Section 23036, relating to credits attributable to a passthrough business entity, in the case where the credit allowed by this section exceeds the taxpayer's tax liability computed under this part, a qualified taxpayer may elect to assign any portion of the credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, "affiliated corporation" has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that "100 percent" is substituted for "more than 50 percent" wherever it appears in the section, and "voting common stock" is substituted for "voting stock" wherever it appears in the section.

(2) The election provided in paragraph (1):

(A) May be based on any method selected by the qualified taxpayer that originally receives the credit.

(B) Shall be irrevocable for the taxable year the credit is allowed, once made.

(C) May be changed for any subsequent taxable year if the election to make the assignment is expressly shown on each of the

returns of qualified taxpayer and a qualified taxpayer's affiliated corporations that assign and receive the credits.

(3) (A) Notwithstanding any other law, a qualified taxpayer, may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.

(B) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(4) In the case where the credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(5) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.

(6) A party that has been assigned or acquired tax credits under this paragraph shall be subject to the requirements of this section.

(7) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(8) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.

(9) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this subdivision.

(d) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:

(1) Identification of each qualified individual.
(2) The specific start and end dates of production.
(3) The total wages paid.
(4) The amount of qualified wages paid to each qualified individual.
(5) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.
(6) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.
(7) Information to substantiate its qualified expenditures.
(8) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.
(e) The California Film Commission may prescribe rules and regulations to carry out the purposes of this section including any rules and regulations necessary to establish procedures, processes, requirements, and rules identified in or required to implement this section. The regulations shall include provisions to set aside a percentage of annual credit allocations for independent films.
(f) If the qualified taxpayer fails to provide the copyright registration number as required in paragraph (5) of subdivision (d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.
(g) For purposes of this section, the California Film Commission shall do the following:
(1) On or after July 1, 2009, and before July 1, 2014, allocate tax credits to applicants.
(A) Establish a procedure for applicants to file with the commission a written application, on a form jointly prescribed by the commission and the Franchise Tax Board for the allocation of the tax credit. The application shall include, but not be limited to, the following information:
(i) The budget for the motion picture production.
(ii) The number of production days.
(iii) A financing plan for the production.

(iv) The diversity of the workforce employed by the applicant, including, but not limited to, the ethnic and racial makeup of the individuals employed by the applicant during the production of the qualified motion picture, to the extent possible.

(v) Any other information deemed relevant by the commission or the Franchise Tax Board.

(B) Establish criteria, consistent with the requirements of this section, for allocating tax credits.

(C) Determine and designate applicants who meet the requirements of this section.

(D) Process and approve, or reject, all applications on a first-come-first-served basis.

(E) Subject to the annual cap established as provided in subdivision (i), allocate an aggregate amount of credits under this section and Section 17053.85, and allocate any carryover of unallocated credits from prior years.

(2) Certify tax credits allocated to qualified taxpayers.

(A) Establish a verification procedure for the amount of qualified expenditures paid or incurred by the applicant.

(B) Establish audit requirements that must be satisfied before a credit certificate ~~maybe~~ *may be* issued by the California Film Commission.

(C) Issue a credit certificate to a qualified taxpayer upon completion of the qualified motion picture, reflecting the credit amount allocated after qualified expenditures have been verified under this section. The amount of a credit shown in the credit certificate shall not exceed the amount of credit allocated to that qualified taxpayer pursuant to this section.

(h) The California Film Commission shall provide the Franchise Tax Board and the board annually with a list of qualified taxpayers and the tax credit amounts allocated to each qualified taxpayer by the California Film Commission. The list shall include the names and taxpayer identification numbers, including taxpayer identification numbers of each partner or shareholder, as applicable, of the qualified taxpayer.

(i) (1) The aggregate amount of credits that may be allocated in any fiscal year pursuant to this section and Section 17053.85 shall be an amount equal to the sum of all of the following:

(A) One hundred million dollars ($100,000,000) in credits for the 2009–10 fiscal year and each fiscal year thereafter, through and including the 2013–14 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

(C) The amount of previously allocated credits not certified.

(2) If the amount of credits applied for in any particular fiscal year exceeds the aggregate amount of tax credits authorized to be allocated under this section, such excess shall be treated as having been applied for on the first day of the subsequent fiscal year. However, credits may not be allocated from a fiscal year other than the fiscal year in which the credit was originally applied for or the immediately succeeding fiscal year.

(3) Notwithstanding the foregoing, the *California* Film Commission shall set aside up to ten million *dollars* ($10,000,000) of tax credits each fiscal year for independent films allocated in accordance with rules and regulations developed pursuant to subdivision (e).

(4) Any act that reduces the amount that may be allocated pursuant to paragraph (1) constitutes a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution and may be passed by not less than two-thirds of all Members elected to each of the two houses of the Legislature.

(j) The ~~film commission~~ *California Film Commission* shall have the authority to allocate tax credits in accordance with this section and in accordance with any regulations prescribed pursuant to subdivision (e) upon adoption.

SEC. 285. Section 24422 of the Revenue and Taxation Code is amended to read:

24422. No deduction shall be allowed for both of the following:

(a) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This subdivision shall not apply to:

(1) Expenditures for the development of mines or deposits deductible under Section 616 of the Internal Revenue Code.

(2) Soil and water conservation expenditures deductible under Section 24369.

(3) Expenditures for farmers for fertilizer, etc., deductible under Section 24377.

(4) Research and experimental expenditures deductible under Section 24365.

(5) Expenditures for which a deduction is allowed under Section 24356.7.

~~(6) Expenditures for which a deduction is allowed under Section 24356.4.~~

~~(7) Expenditures for which a deduction is allowed under Section 24356.5.~~

~~(8)~~

(6) Expenditures for removal of architectural and transportation barriers to the handicapped and elderly that the taxpayer elects to deduct under Section 24383.

(b) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

SEC. 286. Section 24875 of the Revenue and Taxation Code is amended to read:

24875. (a) A financial asset securitization investment trust (FASIT) shall be subject to the minimum franchise tax imposed under Section 23153.

~~(b) Section 860H(b) of the Internal Revenue Code, relating to the taxation of holder of ownership interest, shall be modified as follows:~~

~~(1) All activities of a FASIT shall be treated as activities, including for purposes of Section 23101, of the holder of the ownership interest in the FASIT.~~

~~(2) Section 860H(b)(3) of the Internal Revenue Code, shall not apply.~~

~~(c) Section 860J(d) of the Internal Revenue Code, relating to affiliated groups, shall not apply.~~

~~(d) A reference to the "rate of tax specified in Section 23151" shall be substituted for "highest rate of tax specified in Section 11(b)(1)" of the Internal Revenue Code, contained in Section 860K of the Internal Revenue Code, relating to treatment of transfers of high-yield interests to disqualified holders.~~

~~(e) Section 860L(e) of the Internal Revenue Code, relating to tax on prohibited transactions, shall not apply.~~

~~(f)~~

(b) For purposes of Chapter 4 of Part 10.2 (commencing with Section 19001) the taxes imposed by this section shall be treated as taxes to which the deficiency procedures of that article apply.

SEC. 287. Section 24875.5 of the Revenue and Taxation Code is repealed.

~~24875.5. (a) Section 860L(b)(1)(A) of the Internal Revenue Code is modified by substituting the phrase "on or after the startup date" for the phrase "after the startup date."~~

~~(b) Section 860L(d)(2) of the Internal Revenue Code is modified by substituting a reference to Section 860I(b)(2) of the Internal Revenue Code in lieu of the reference to Section 860I(c)(2) of the Internal Revenue Code.~~

~~(c) This section shall apply on and after September 1, 1997.~~

~~(d) This section shall not apply to income years beginning on or after January 1, 1998.~~

SEC. 288. Section 143 of the Streets and Highways Code is amended to read:

143. (a) (1) "Best value" means a value determined by objective criteria, including, but not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the department or the regional transportation agency.

(2) "Contracting entity or lessee" means a public or private entity, or consortia thereof, that has entered into a comprehensive development lease agreement with the department or a regional transportation agency for a transportation project pursuant to this section.

(3) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(4) "Regional transportation agency" means any of the following:

(A) A transportation planning agency as defined in Section 29532 or 29532.1 of the Government Code.

(B) A county transportation commission as defined in Section 130050, 130050.1, or 130050.2 of the Public Utilities Code.

(C) Any other local or regional transportation entity that is designated by statute as a regional transportation agency.

(D) A joint exercise of powers authority as defined in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning

agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.

(5) "Public Infrastructure Advisory Commission" means a unit or auxiliary organization established by the Business, Transportation and Housing Agency that advises the department and regional transportation agencies in developing transportation projects through performance-based infrastructure partnerships.

(6) "Transportation project" means one or more of the following: planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance of highway, public street, rail, or related facilities supplemental to existing facilities currently owned and operated by the department or regional transportation agencies that is consistent with the requirements of subdivision (c).

(b) (1) The Public Infrastructure Advisory Commission shall do all of the following:

(A) Identify transportation project opportunities throughout the state.

(B) Research and document similar transportation projects throughout the state, nationally, and internationally, and further identify and evaluate lessons learned from these projects.

(C) Assemble and make available to the department or regional transportation agencies a library of information, precedent, research, and analysis concerning infrastructure partnerships and related types of public-private transactions for public infrastructure.

(D) Advise the department and regional transportation agencies, upon request, regarding infrastructure partnership suitability and best practices.

(E) Provide, upon request, procurement-related services to the department and regional transportation agencies for infrastructure partnership.

(2) The Public Infrastructure Advisory Commission may charge a fee to the department and regional transportation agencies for the services described in subparagraphs (D) and (E) of paragraph (1), the details of which shall be articulated in an agreement entered into between the Public Infrastructure Advisory Commission and the department or the regional transportation agency.

(c) (1) Notwithstanding any other provision of law, only the department, in cooperation with regional transportation agencies, and regional transportation agencies, may solicit proposals, accept

unsolicited proposals, negotiate, and enter into comprehensive development lease agreements with public or private entities, or consortia thereof, for transportation projects.

(2) Projects proposed pursuant to this section and associated lease agreements shall be submitted to the California Transportation Commission. The commission, at a regularly scheduled public hearing, shall select the candidate projects from projects nominated by the department or a regional transportation agency after reviewing the nominations for consistency with paragraphs (3) and (4). Approved projects may proceed with the process described in paragraph (5).

(3) The projects authorized pursuant to this section shall be primarily designed to achieve the following performance objectives:

(A) Improve mobility by improving travel times or reducing the number of vehicle hours of delay in the affected corridor.

(B) Improve the operation or safety of the affected corridor.

(C) Provide quantifiable air quality benefits for the region in which the project is located.

(4) In addition to meeting the requirements of paragraph (3), the projects authorized pursuant to this section shall address a known forecast demand, as determined by the department or regional transportation agency.

(5) At least 60 days prior to executing a final lease agreement authorized pursuant to this section, the department or regional transportation agency shall submit the agreement to the Legislature and the Public Infrastructure Advisory Commission for review. Prior to submitting a lease agreement to the Legislature and the Public Infrastructure Advisory Commission, the department or regional transportation agency shall conduct at least one public hearing at a location at or near the proposed facility for purposes of receiving public comment on the lease agreement. Public comments made during this hearing shall be submitted to the Legislature and the Public Infrastructure Advisory Commission with the lease agreement. The Secretary of Business, Transportation and Housing or the ~~Chairperson~~ *chairperson* of the Senate or Assembly fiscal committees or policy committees with jurisdiction over transportation matters may, by written notification to the department or regional transportation agency, provide any comments about the proposed agreement within the 60-day period

prior to the execution of the final agreement. The department or regional transportation agency shall consider those comments prior to executing a final agreement and shall retain the discretion for executing the final lease agreement.

(d) For the purpose of facilitating those projects, the agreements between the parties may include provisions for the lease of rights-of-way in, and airspace over or under, highways, public streets, rail, or related facilities for the granting of necessary easements, and for the issuance of permits or other authorizations to enable the construction of transportation projects. Facilities subject to an agreement under this section shall, at all times, be owned by the department or the regional transportation agency, as appropriate. For department projects, the commission shall certify the department's determination of the useful life of the project in establishing the lease agreement terms. In consideration therefor, the agreement shall provide for complete reversion of the leased facility, together with the right to collect tolls and user fees, to the department or regional transportation agency, at the expiration of the lease at no charge to the department or regional transportation agency. At *the* time of the reversion, the facility shall be delivered to the department or regional transportation agency, as applicable, in a condition that meets the performance and maintenance standards established by the department or regional transportation agency and that is free of any encumbrance, lien, or other claims.

(e) Agreements between the department or regional transportation agency and the contracting entity or lessee shall authorize the contracting entity or lessee to use a design-build method of procurement for transportation projects, subject to the requirements for utilizing such a method contained in Chapter 6.5 (commencing with Section 6800) of Part 1 of Division 2 of the Public Contract Code, other than Sections 6802, 6803, and 6813 of that code, if those provisions are enacted by the Legislature during the 2009–10 Regular Session, or a 2009–10 extraordinary session.

(f) (1) (A) Notwithstanding any other provision of this chapter, for projects on the state highway system, the department is the responsible agency for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and

environmental documents, and construction inspection services. The department is also the responsible agency for the preparation of documents that may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans, and any other information deemed necessary to describe adequately the needs of the department or regional transportation agency.

(B) The department may use department employees or consultants to perform the services described in subparagraph (A), consistent with Article XXII of the California Constitution. Department resources, including personnel requirements, necessary for the performance of those services shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(2) The department or a regional transportation agency may exercise any power possessed by it with respect to transportation projects to facilitate the transportation projects pursuant to this section. The department, regional transportation agency, and other state or local agencies may provide services to the contracting entity or lessee for which the public entity is reimbursed, including, but not limited to, planning, environmental planning, environmental certification, environmental review, preliminary design, design, right-of-way acquisition, construction, maintenance, and policing of these transportation projects. The department or regional transportation agency, as applicable, shall regularly inspect the facility and require the contracting entity or lessee to maintain and operate the facility according to adopted standards. Except as may otherwise be set forth in the lease agreement, the contracting entity or lessee shall be responsible for all costs due to development, maintenance, repair, rehabilitation, and reconstruction, and operating costs.

(g) (1) In selecting private entities with which to enter into these agreements, notwithstanding any other provision of law, the department and regional transportation agencies may utilize, but are not limited to utilizing, one or more of the following procurement approaches:

(A) Solicitations of proposals for defined projects and calls for project proposals within defined parameters.

(B) Prequalification and short-listing of proposers prior to final evaluation of proposals.

(C) Final evaluation of proposals based on qualifications and best value. The California Transportation Commission shall develop and adopt criteria for making that evaluation prior to evaluation of a proposal.

(D) Negotiations with proposers prior to award.

(E) Acceptance of unsolicited proposals, with issuance of requests for competing proposals. Neither the department nor a regional transportation agency may award a contract to an unsolicited bidder without receiving at least one other responsible bid.

(2) When evaluating a proposal submitted by the contracting entity or lessee, the department or the regional transportation agency may award a contract on the basis of the lowest bid or best value.

(h) The contracting entity or lessee shall have the following qualifications:

(1) Evidence that the members of the contracting entity or lessee have completed, or have demonstrated the experience, competency, capability, and capacity to complete, a project of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the contracting entity or lessee has the capacity to complete the project.

(2) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(3) Evidence that establishes that members of the contracting entity or lessee have the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(4) Evidence that the contracting entity or lessee has workers' compensation experience, history, and a worker safety program of members of the contracting entity or lessee that is acceptable to the department or regional transportation agency.

(5) A full disclosure regarding all of the following with respect to each member of the contracting entity or lessee during the past five years:

(A) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 ~~(Public Law~~ *(P.L.* 91-596).

(B) Any instance where members of the contracting entity or lessee were debarred, disqualified, or removed from a federal, state, or local government public works project.

(C) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(D) Any instance where members of the contracting entity or lessee, or its owners, officers, or managing employees defaulted on a construction contract.

(E) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), including, but not limited to, alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance ~~Contribution~~ *Contributions* Act (FICA) withholding requirements.

(F) Any bankruptcy or receivership of any member of the contracting entity or lessee, including, but not limited to, information concerning any work completed by a surety.

(G) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the contracting entity or lessee during the five years preceding submission of a bid under this article, in which the claim, settlement, or judgment exceeds fifty thousand dollars ($50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

(H) If the contracting entity or lessee is a partnership, joint venture, or an association that is not a legal entity, a copy of the agreement creating the partnership or association that specifies that all general partners, joint venturers, or association members agree to be fully liable for the performance under the agreement.

(i) No agreement entered into pursuant to this section shall infringe on the authority of the department or a regional transportation agency to develop, maintain, repair, rehabilitate, operate, or lease any transportation project. Lease agreements may provide for reasonable compensation to the contracting entity or lessee for the adverse effects on toll revenue or user fee revenue due to the development, operation, or lease of supplemental transportation projects with the exception of any of the following:

(1) Projects identified in regional transportation plans prepared pursuant to Section 65080 of the Government Code.

(2) Safety projects.

(3) Improvement projects that will result in incidental capacity increases.

(4) Additional high-occupancy vehicle lanes or the conversion of existing lanes to high-occupancy vehicle lanes.

(5) Projects located outside the boundaries of a public-private partnership project, to be defined by the lease agreement.

However, compensation to a contracting entity or lessee shall only be made after a demonstrable reduction in use of the facility resulting in reduced toll or user fee revenues, and may not exceed the difference between the reduction in those revenues and the amount necessary to cover the costs of debt service, including principal and interest on any debt incurred for the development, operation, maintenance, or rehabilitation of the facility.

(j) (1) Agreements entered into pursuant to this section shall authorize the contracting entity or lessee to impose tolls and user fees for use of a facility constructed by it, and shall require that over the term of the lease the toll revenues and user fees be applied to payment of the capital outlay costs for the project, the costs associated with operations, toll and user fee collection, administration of the facility, reimbursement to the department or other governmental entity for the costs of services to develop and maintain the project, police services, and a reasonable return on investment. The agreement shall require that, notwithstanding Sections 164, 188, and 188.1, any excess toll or user fee revenue either be applied to any indebtedness incurred by the contracting entity or lessee with respect to the project, improvements to the project, or be paid into the State Highway Account, or for all three purposes, except that any excess toll revenue under a lease agreement with a regional transportation agency may be paid to

the regional transportation agency for use in improving public transportation in and near the project boundaries.

(2) Lease agreements shall establish specific toll or user fee rates. Any proposed increase in those rates not otherwise established or identified in the lease agreement during the term of the agreement shall first be approved by the department or regional transportation agency, as appropriate, after at least one public hearing conducted at a location near the proposed or existing facility.

(3) The collection of tolls and user fees for the use of these facilities may be extended by the commission or regional transportation agency at the expiration of the lease agreement. However, those tolls or user fees shall not be used for any purpose other than for the improvement, continued operation, or maintenance of the facility.

(k) Agreements entered into pursuant to this section shall include indemnity, defense, and hold harmless provisions agreed to by the department or regional transportation agency and the contracting entity or lessee, including provisions for indemnifying the State of California or the regional transportation agency against any claims or losses resulting or accruing from the performance of the contracting entity or lessee.

(*l*) The plans and specifications for each transportation project on the state highway system developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to this section shall comply with the department's standards for state transportation projects. The lease agreement shall include performance standards, including, but not limited to, levels of service. The agreement shall require facilities on the state highway system to meet all requirements for noise mitigation, landscaping, pollution control, and safety that otherwise would apply if the department were designing, building, and operating the facility. If a facility is on the state highway system, the facility leased pursuant to this section shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance, enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(m) Failure to comply with the lease agreement in any significant manner shall constitute a default under the agreement and the

department or the regional transportation agency, as appropriate, shall have the option to initiate processes to revert the facility to the public agency.

(n) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(o) A lease to a private entity pursuant to this section is deemed to be public property for a public purpose and exempt from leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purposes.

(p) Nothing in this section is intended to infringe on the authority to develop high-occupancy toll lanes pursuant to Section 149.4, 149.5, or 149.6.

(q) Nothing in this section shall be construed to allow the conversion of any existing nontoll or nonuser-fee lanes into tolled or user fee lanes with the exception of a high-occupancy vehicle lane that may be operated as a high-occupancy toll lane for vehicles not otherwise meeting the requirements for use of that lane.

(r) The lease agreement shall require the contracting entity or lessee to provide any information or data requested by the California Transportation Commission or the Legislative Analyst. The commission, in cooperation with the Legislative Analyst, shall annually prepare a report on the progress of each project and ultimately on the operation of the resulting facility. The report shall include, but not be limited to, a review of the performance standards, a financial analysis, and any concerns or recommendations for changes in the program authorized by this section.

(s) Notwithstanding any other provision of this section, no lease agreement may be entered into pursuant to the section that affects, alters, or supersedes the Memorandum of Understanding (MOU), dated November 26, 2008, entered into by the Golden Gate Bridge Highway and Transportation District, the Metropolitan Transportation Commission, and the San Francisco County Transportation Authority, relating to the financing of the U.S. Highway 101/Doyle Drive reconstruction project located in the City and County of San Francisco.

(t) No lease agreements may be entered into under this section on or after January 1, 2017.

SEC. 289. Section 182.2 of the Streets and Highways Code is amended to read:

182.2. Notwithstanding any other provision of law, toll bridge seismic retrofit and replacement projects described in Section 188.5 shall continue to be governed by the provisions of former Article 4.9 ~~(commending~~ *(commencing* with Section 180), as added by Chapter 15 of the Statutes of 1994 and subsequently amended, as that article read on January 1, 2005, other than former Section 180.7 relative to repeal. This section shall become inoperative when all toll bridge seismic retrofit and replacement projects described in Section 188.5 are complete.

SEC. 290. Section 1188 of the Streets and Highways Code is amended to read:

1188. The board shall cause the highway work provided for in this article to be done in accordance with the provisions of Sections 20391 to 20395, inclusive, of the Public ~~Contracts~~ *Contract* Code, except that the notice calling for bids shall be published in a newspaper published in the division if there is such a newspaper. The successful bidder shall deposit a bond in the amount the board requires, conditioned on the faithful performance of the contract and on the payment for all labor employed and all material used in the work.

SEC. 291. Section 5898.15 of the Streets and Highways Code, as added by Section 1 of Chapter 564 of the Statutes of 2010, is repealed.

~~5898.15. (a) A public agency shall not permit a property owner to participate in any program established pursuant to this chapter if the owner's participation would result in the total amount of any annual property taxes and assessments exceeding 5 percent of the property's market value, as determined at the time of approval of the owner's contractual assessment.~~

~~(b) Nothing in this chapter shall be construed to void or otherwise release a property owner from the contractual obligations incurred by a contractual assessment on a property, particularly in the event that the total amount of annual property taxes and assessments exceeds 5 percent of a property's market value after the property owner has entered into a contractual assessment pursuant to this chapter.~~

SEC. 292. Section 5898.23 of the Streets and Highways Code, as added by Section 2 of Chapter 564 of the Statutes of 2010, is repealed.

~~5898.23. For purposes of the report required pursuant to Section 5898.22, the statement of public agency policies required pursuant to subdivision (c) of that section shall also include a brief description of criteria for determining the underwriting requirements, as well as safeguards that will be used to ensure that the total annual property tax and assessments on the property will not exceed 5 percent of the property's market value, as determined at the time of approval for the owner's contractual assessment.~~

SEC. 293. Section 1088.5 of the Unemployment Insurance Code is amended to read:

1088.5. (a) In addition to information reported in accordance with Section 1088, effective July 1, 1998, each employer shall file, with the department, the information provided for in subdivision (b) on new employees.

(b) Each employer shall report the hiring of any employee who works in this state and to whom the employer anticipates paying wages.

(c) (1) This section shall not apply to any department, agency, or instrumentality of the United States.

(2) State agency employers shall not be required to report employees performing intelligence or counterintelligence functions, if the head of the agency has determined that reporting pursuant to this section would endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(d) (1) Employers shall submit a report as described in paragraph (4) within 20 days of hiring any employee whom the employer is required to report pursuant to this section.

(2) Notwithstanding subdivision (a), employers transmitting reports magnetically or electronically shall submit the report by two monthly transmissions not less than 12 days ~~no~~ *or* more than 16 days apart.

(3) For purposes of this section, an employer that has employees in two or more states and that transmits reports magnetically or electronically may designate one state in which the employer has employees to which the employer will transmit the report described in paragraph (4). Any employer that transmits reports pursuant to this paragraph shall notify the Secretary of *California* Health and Human Services in writing as to which state the employer designates for the purpose of sending reports.

(4) The report shall contain the following:

(A) The name, address, and social security number of the employees.

(B) The employer's name, address, state employer identification number (if one has been issued), and identifying number assigned to the employer under Section 6109 of the Internal Revenue Code of 1986.

(C) The first date the employee worked.

(5) Employers may report pursuant to this section by submitting a copy of the employee's W-4 form, a form provided by the department, or any other hiring document transmitted by first-class mail, magnetically, or electronically.

(e) For each failure to report the hiring of an employee, as required and within the time required by this section, unless the failure is due to good cause, the department may assess a penalty of twenty-four dollars ($24), or four hundred ninety dollars ($490) if the failure is the result of conspiracy between the employer and employee not to supply the required report or to supply a false or incomplete report.

(f) Information collected pursuant to this section may be used for the following purposes:

(1) Administration of this code.

(2) Locating individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

(3) Administration of employment security and workers' compensation programs.

(4) Providing employer or employee information to the Franchise Tax Board for the purpose of tax enforcement.

(5) Verification of eligibility of applicants for, or recipients of, the public assistance programs listed in Section 1320b-7(b) of Title 42 of the United States Code.

(g) For purposes of this section, "employer" includes, *but is not limited to,* a labor union hiring hall.

(h) This section shall become operative on July 1, 1998.

SEC. 294. Section 1269 of the Unemployment Insurance Code, as amended by Section 5 of Chapter 591 of the Statutes of 2010, is amended to read:

1269. A determination of automatic eligibility for benefits under this article shall be issued to an unemployed individual if the director finds that any of the following ~~apply~~ *applies*:

(a) The training is authorized by the federal Workforce Investment Act ~~(Public Law~~ *(P.L.* 105-220) or by the Employment Training Panel established pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(b) The training is authorized by the federal Trade Act of 1974~~,~~ (19 U.S.C. Sec. 2101 et seq.), as amended by the federal Trade Act of 2002 ~~(Public Law~~ *(P.L.* 107-210), and as those acts may be amended by the Trade and Globalization Adjustment Assistance Act of 2009, enacted under the American Recovery and Reinvestment Act of 2009 ~~(Public Law~~ *(P.L.* 111-5), pursuant to a certified petition.

(c) The individual is a participant in the California Work Opportunity and Responsibility to Kids (CalWORKs) program pursuant to Article 3.2 (commencing with Section 11320) or Article 3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, and has entered into a contract with the county welfare department to participate in an education or training program.

(d) The individual is a participant in training with a provider that is certified and on the state's Eligible Training Provider List (ETPL), as authorized by the federal Workforce Investment Act ~~(Public Law~~ *(P.L.* 105-220).

(e) The individual is a journey level union member and the training or retraining course of instruction is industry-related training necessary due to changes in technology, or industry demands, or is necessary to retain employment or to become more competitive in obtaining employment.

SEC. 295. Section 1269.1 of the Unemployment Insurance Code is amended to read:

1269.1. *(a)* If the training is not authorized under Section 1269, a determination of potential eligibility for benefits under this article shall be issued to an unemployed individual if the director finds that all of the following apply:

~~(a)~~

(1) The individual has been unemployed for four or more continuous weeks, or the individual is unemployed and unlikely to return to his or her most recent workplace because work opportunities in the individual's job classification are impaired by a plant closure or a substantial reduction in employment at the individual's most recent workplace, by advancement in

technological improvements, by the effects of automation and relocation in the economy, or because of mental or physical disability that prohibits the individual from utilizing existing occupational skills.

~~(b)~~

(2) One of the substantial causes of the individual's unemployment is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity, and that the lack of employment opportunities is expected to continue for an extended period of time, or, if the individual's occupation is one for which there is a seasonal variation in demand in the labor market and the individual has no other skill for which there is current demand.

~~(c)~~

(3) The training or retraining course of instruction relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the labor market area in this state in which the individual intends to seek work and there is not a substantial surplus of workers with requisite skills in the occupation in that area.

~~(d)~~

(4) The training or retraining course of instruction is one approved by the director and can be completed within a reasonable period of time.

~~(e)~~

(5) The training or retraining course is a full-time course prescribed for the primary purpose of training the applicant in skills that will allow him or her to obtain employment in a demand occupation.

~~(f)~~

(6) The individual can be reasonably expected to complete the training or retraining successfully.

~~(g)~~

(7) The beginning date of training is more than three years after the beginning date of training last approved for the individual under *former subdivision (d) of Section 1269 or* this subdivision.

~~(h) (1)~~

(b) If a determination of potential eligibility for benefits is issued under this section, except under *paragraph (3) of* subdivision ~~(c)~~

(a), and when federal extended unemployment insurance benefits are in effect, the director may find that an unemployed individual is eligible for training benefits if the individual is enrolled in a community college or other accredited postsecondary education program with the purpose of preparing the applicant in academic or job skills, including remedial training, that will increase employment opportunities or that leads to an industry-recognized credential or certificate designed for a specific occupation. If an individual is approved for training benefits under this subdivision and the federal extended unemployment insurance benefits are subsequently no longer in effect, the individual shall remain eligible as long as he or she is attending the training and is meeting the provisions of this article.

~~(2)~~

(c) For purposes of this section, the following terms have the following meanings:

~~(A)~~

(1) "Accredited" means an institution recognized or approved by an accrediting agency recognized by the United States Department of Education.

~~(B)~~

(2) "Accrediting agency" is an agency recognized by the United States Department of Education.

SEC. 296. Section 1755 of the Unemployment Insurance Code is amended to read:

1755. If any person or employing unit is delinquent in the payment of any contributions, penalties or interest provided for in this division, the director may, not later than three years after the payment became delinquent or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, collect the delinquency or enforce any liens by levy served either personally or by first-class mail, to all persons having in their possession or under their control any credits or personal property belonging to the delinquent person or employing unit, or owing any debts to the person or employing unit at the time of the receipt of the notice of levy or coming into their possession or under their control for the period of one year from the time of receipt of the notice of levy. Any person upon whom a levy has been served

having in his or her possession or under his or her control any credits or personal property belonging to the delinquent person or employing unit or owing any debts to the person or employing unit at the time of the receipt of the levy or coming into his or her possession or under his or her control for the period of one year from the time of receipt of the notice of levy, shall surrender the credits or personal property to the director or pay to the director the amount of any debt owing the delinquent employer within five days of service of the levy, and shall surrender the credits or personal property, or the amount of any debt owing to the delinquent employer coming into his or her possession or under his or her control within one year of receipt of the notice of levy within five days of the date of coming into possession or control of the credits or personal property, or the amount of any debt owing to the delinquent employer is incurred. Any person in possession of any credits or personal property or owing any debts to the delinquent person or employing unit who surrenders the credits or personal property or pays the debts owing the delinquent person or employing unit shall be discharged from any obligation or liability to the delinquent person or employing unit with respect to the credits or personal property surrendered or debts paid to the director. If the levy is made on a deposit or credits or personal property in the possession or under the control of a bank or savings and loan association, the notice of levy shall be delivered or mailed to the centralized processing unit or location designated by that bank or savings and loan association where the credits or other property are held. If the levy is made on a bank or savings and loan association, it will apply to all credits or personal property as provided in this section, except that it will apply to credits and personal property in a deposit account, as defined in paragraph (29) of subdivision (a) of Section 9102 of the Commercial Code, only at the time the notice of levy is received by the bank or savings and loan association.

SEC. 297. Section 1757 of the Unemployment Insurance Code is amended to read:

1757. Any person notified pursuant to Section 1755 or 1755.1 who fails or refuses to surrender any credits or other personal property, or pay any debts owing to the delinquent employer, up to the amount specified in the levy, shall be liable in his *or her* own person and estate to the director in an amount equal to the

value of the credits or other personal property in the amount of the debt, but not exceeding the amount specified in the notice of levy, if solely by reason of such failure or refusal, the department is unable to recover the contributions, penalties, or interest owing by the person with respect to which the notice was given.

SEC. 298. Section 3011 of the Unemployment Insurance Code is amended to read:

3011. Whenever any warrant is drawn on an account in the Disability ~~fund~~ *Fund* by the Controller, and the same remains unclaimed after one year, the amount thereof shall revert to that account in the Disability Fund from which the amount was payable.

SEC. 299. Section 3701 of the Unemployment Insurance Code is amended to read:

3701. (a) (1) Any employer who is entitled under Section 3654 to notice of the filing of a primary claim or additional claim and who, within 10 days after mailing of the notice, submits to the department any facts within its possession disclosing whether the exhaustee left the most recent employment with the employer voluntarily and without good cause or was discharged from the employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left the employer's employ to accompany his or her spouse or domestic partner to a place or join him or her at a place from which it is impractical to commute to the employment, and to which a transfer of the claimant by the employer is not available or whether the claimant's discharge or quit from his or her most recent employer was the result of an ~~irresistable~~ *irresistible* compulsion to use or consume intoxicants including alcoholic beverages, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit these facts may be extended by the director for good cause.

(2) For purposes of this section, "spouse" includes a person to whom marriage is imminent, and "domestic partner" includes a person to whom a domestic partnership, as described in Section 297 of the Family Code, is imminent.

(b) The department shall consider these facts together with any information in its possession. If the employer is entitled to a

determination pursuant to Section 3655, the department shall promptly notify the employer of its ruling as to the cause of the termination of the exhaustee's most recent employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which related to a determination *that* is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that determination.

(c) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 300. Section 15002 of the Unemployment Insurance Code is amended to read:

15002. (a) The California Workforce Investment Board (CWIB) shall establish a special committee known as the Green Collar Jobs Council (GCJC), comprised of the appropriate representatives from the CWIB existing membership, including the K–12 representative, the California Community Colleges representative, the Business, Transportation and Housing Agency representative, the Employment Development Department representative, and other appropriate members. The GCJC may

consult with other state agencies, other higher education representatives, local workforce investment boards, and industry representatives as well as philanthropic, nongovernmental, and environmental groups, as appropriate, in the development of a strategic initiative.

(b) As part of the strategic initiative, the GCJC shall focus on developing the framework, funding, strategies, programs, policies, partnerships, and opportunities necessary to address the growing need for a highly skilled and well-trained workforce to meet the needs of California's emerging green economy. The GCJC shall do all of the following:

(1) Assist in identifying and linking green collar job opportunities with workforce development training opportunities in local workforce investment areas (LWIAs), encouraging regional collaboration among LWIAs to meet regional economic demands.

(2) Align workforce development activities with regional economic recovery and growth strategies.

(3) Develop public, private, philanthropic, and nongovernmental partnerships to build and expand the state's workforce development programs, network, and infrastructure.

(4) Provide policy guidance for job training programs for the clean and green technology sectors to help them prepare specific populations, such as at-risk youth, displaced workers, veterans, formerly incarcerated individuals, and others facing barriers to employment.

(5) Develop, collect, analyze, and distribute statewide and regional labor market data on California's new and emerging green industries workforce needs, trends, and job growth.

(6) Collaborate with community colleges and other educational institutions, registered apprenticeship programs, business and labor organizations, and community-based and philanthropic organizations to align workforce development services with strategies for regional economic growth.

(7) Identify funding resources and make recommendations on how to expand and leverage these funds.

(8) Foster regional collaboratives in the green economic sector.

(c) The CWIB may accept any revenues, moneys, grants, goods, or services from federal and state entities, philanthropic organizations, and other sources, to be used for purposes relating to the administration and implementation of the strategic initiative,

as described in subdivision (b). The CWIB shall also ensure the highest level of transparency and accountability and make information available on the CWIB Internet Web site.

(d) Upon appropriation by the Legislature, the department may expend the moneys and revenues received pursuant to subdivision (c) for purposes related to the administration and implementation of the strategic *initiative*, and for the award of workforce training grants implementing the strategic initiative.

SEC. 301. Section 5007 of the Vehicle Code is amended to read:

5007. (a) The department shall, upon application and without additional fees, issue a special license plate or plates pursuant to procedures adopted by the department to *all of* the following:

(1) A disabled person.

(2) A disabled veteran.

(3) An organization or agency involved in the transportation of disabled persons or disabled veterans if the motor vehicle that will have the special license plate is used solely for the purpose of transporting those persons.

(b) The special license plates issued under subdivision (a) shall run in a regular numerical series that shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol" shall be depicted on each plate.

(c) (1) Except as provided in paragraph (3), prior to issuing a special license plate to a disabled person or disabled veteran, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician and surgeon, or to the extent that it does not cause a reduction in the receipt of federal aid highway funds, by a nurse practitioner, certified nurse midwife, or physician assistant, substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of a person who has lost, or has lost *the* use of, one or more lower extremities or one hand, for a disabled veteran, or both hands for a disabled person, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of an applicant shall be certified by a licensed physician and surgeon who

specializes in diseases of the eye or a licensed optometrist. The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department.

(2) The physician and surgeon, nurse practitioner, certified nurse midwife, physician assistant, chiropractor, or optometrist who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California or the appropriate regulatory board.

(3) For a disabled veteran, the department shall accept, in lieu of the certificate described in paragraph (1), a certificate from the United States Department of Veterans Affairs that certifies that the applicant is a disabled veteran as described in Section 295.7.

(d) A disabled person or disabled veteran *who is* issued a license plate or plates under this section shall, upon request, present to a peace officer, or person authorized to enforce parking laws, ordinances, or regulations, a certification form that substantiates the eligibility of the disabled person or veteran to possess the plate or plates. The certification shall be on a form prescribed by the department and contain the name of the disabled person or disabled veteran to whom the plate or plates were issued, and the name, address, and telephone number of the medical professional described in subdivision (c) who certified the eligibility of the person or veteran for the plate or plates.

(e) The certification requirements of subdivisions (c) and (d) do not apply to an organization or agency that is issued a special license plate or plates under paragraph (3) of subdivision (a).

(f) The special license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

(g) When a motor vehicle subject to paragraph (3) of subdivision (a) is sold or transferred, the special license plate or plates issued to an organization or agency under paragraph (3) of subdivision (a) for that motor vehicle shall be immediately returned to the department.

SEC. 302. Section 11205.4 of the Vehicle Code, as added by Chapter 599 of the Statutes of 2010, is amended to read:

11205.4. (a) The department may use a traffic assistance program (TAP), or until January 1, 2013, a CAP established pursuant to Section 11205.2, for monitoring of licensed traffic violator schools, including, but not limited to, audits, inspections, review and examination of business records, class records, business practices, the content of the program of instruction set forth in the lesson plan, or curriculum of a licensee. Inspection includes, but is not limited to, the review of the business office, branch office, and applicable classroom facilities of a licensee. Monitoring includes onsite review of actual presentation of the traffic safety instruction provided in a classroom and any other activity deemed necessary to ensure high-quality education of traffic violators.

(b) This section shall become operative on September 1, 2011.

SEC. 303. Section 12509 of the Vehicle Code is amended to read:

12509. (a) Except as otherwise provided in subdivision (f) of Section 12514, the department, for good cause, may issue an instruction permit to a physically and mentally qualified person who meets one of the following requirements and who applies to the department for an instruction permit:

(1) Is ~~age~~ 15 years and 6 months *of age* or older, and has successfully completed approved courses in automobile driver education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(2) Is ~~age~~ 15 years and 6 months *of age* or older, and has successfully completed an approved course in automobile driver education and is taking driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(3) Is ~~age~~ 15 years and 6 months *of age* and enrolled and participating in an integrated automobile driver education and training program as provided in subparagraph (B) of paragraph (3) of subdivision (a) of Section 12814.6.

(4) Is over ~~the age of~~ 16 years *of age* and is applying for a restricted driver's license pursuant to Section 12814.7.

(5) Is over ~~the age of~~ 17 years and 6 months *of age*.

(b) The applicant shall qualify for, and be issued, an instruction permit within 12 months from the date of the application.

(c) An instruction permit issued pursuant to subdivision (a) shall entitle the applicant to operate a vehicle, subject to the limitations imposed by this section and any other provisions of law, upon the highways for a period not exceeding 24 months from the date of the application.

(d) Except as provided in Section 12814.6, a person, while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), may operate a motor vehicle, other than a motorcycle, motorized scooter, or a motorized bicycle, when accompanied by, and under the immediate supervision of, a ~~California licensed~~ *California-licensed* driver with a valid license of the appropriate class~~,~~ *who is* 18 years of age or over *and* whose driving privilege is not ~~on~~ *subject to* probation. An accompanying licensed driver at all times shall occupy a position within the driver's compartment that would enable the accompanying licensed driver to assist the person in controlling the vehicle as may be necessary to avoid a collision and to provide immediate guidance in the safe operation of the vehicle.

(e) A person, while having in his or her immediate possession a valid permit issued pursuant to paragraph (4) of subdivision (a), may only operate a government-owned motor vehicle, other than a motorcycle, motorized scooter, or a motorized bicycle, when taking driver training instruction administered by the California National Guard.

(f) The department may also issue an instruction permit to a person who has been issued a valid driver's license to authorize the person to obtain driver training instruction and to practice that instruction in order to obtain another class of driver's license or an endorsement.

(g) The department may further restrict permits issued under subdivision (a) as it may determine to be appropriate to ensure the safe operation of a motor vehicle by the permittee.

SEC. 304. Section 12804.9 of the Vehicle Code is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of ~~the provisions of~~ this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination for ~~any~~ *an* applicant who submits a license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico if the department verifies through ~~any~~ *an* acknowledged national driver record data source that there are no stops, holds, or other impediments to its issuance. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(E) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any grounds exist for refusal of a license under this code.

(2) The examination for a class A or class B driver's license under subdivision (b) shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a health care professional. As used in this paragraph, "health care professional" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to practice medicine and perform physical examinations in the United States. Health care professionals are doctors of medicine, doctors of osteopathy, physician assistants, and registered advanced practice nurses, or doctors of chiropractic who are clinically competent to perform the medical examination presently required of motor carrier drivers

by the federal Department of Transportation. The report shall be on a form approved by the department, the federal Department of Transportation, or the Federal Aviation Administration. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration.

(3) A physical defect of the applicant that, in the opinion of the department, is compensated for to ensure safe driving ability~~,~~ shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, an applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) A combination of vehicles, if a vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) A vehicle towing more than one vehicle.

(C) A trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) A single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) A bus except a trailer bus.

(D) A farm labor vehicle.

(E) A single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) A house car over 40 feet in length, excluding safety devices and safety bumpers.

(G) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) A two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), a two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) A house car of 40 feet in length or less.

(D) A three-axle vehicle weighing 6,000 pounds gross or less.

(E) A house car of 40 feet in length or less or a vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. A person driving a vehicle may not tow another vehicle in violation of Section 21715.

(F) (i) A two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) A two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway.

The authority to operate combinations of vehicles under this subparagraph may be granted by endorsement on a class C license upon completion of that written examination.

(G) A vehicle or combination of vehicles with a gross combination weight rating or a gross vehicle weight rating, as those terms are defined in subdivisions (j) and (k), respectively, of Section 15210, of 26,000 pounds or less, if all of the following conditions are met:

(i) Is operated by a farmer, an employee of a farmer, or an instructor credentialed in agriculture as part of an instructional program in agriculture at the high school, community college, or university level.

(ii) Is used exclusively in the conduct of agricultural operations.

(iii) Is not used in the capacity of a for-hire carrier or for compensation.

(H) Firefighting equipment, provided that the equipment is operated by a person who holds a firefighter endorsement pursuant to Section 12804.11.

(I) A motorized scooter.

(J) Class C does not include a two-wheel motorcycle or a two-wheel motor-driven cycle.

(4) Class M1~~. A~~ *includes a* two-wheel motorcycle or a motor-driven cycle. Authority to operate a vehicle included in a class M1 license may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) (A) Class M2 includes the following:

(i) A motorized bicycle or moped, or a bicycle with an attached motor, except a motorized bicycle described in subdivision (b) of Section 406.

(ii) A motorized scooter.

(B) Authority to operate vehicles included in class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination, except that no endorsement is required for a motorized scooter. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) A driver's license or driver certificate is not valid for operating a commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold ~~any~~ *a* driver certificate or ~~any~~ *a* driver's license endorsement under Section 15275, unless a medical certificate approved by the department, the federal Department of Transportation, or the Federal Aviation Administration, that has been issued within two years of the date of the operation of that vehicle, is within the licensee's immediate possession, and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise, the license is valid only for operating class C vehicles that are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, that are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) is valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) The department may accept a certificate of satisfactory completion of a novice motorcyclist training program approved by the commissioner pursuant to Section 2932 in lieu of a driving test on class M1 or M2 applications, if the applicant has met the other examination requirements for the license for which he or she is applying. The department shall review and approve the written and driving test used by a program to determine whether the program may issue a certificate of completion.

(h) Notwithstanding subdivision (b), a person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking ~~any~~ *a* special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this subdivision, "short-term" means 48 hours or less.

(i) A person under the age of 21 years ~~may~~ *shall* not be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(j) A driver of a vanpool vehicle may operate with a class C license but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of

perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit-and-run offense in the last five years.

SEC. 305. Section 12804.11 of the Vehicle Code is amended to read:

12804.11. (a) To operate firefighting equipment, a driver, including a tiller operator, is required to obtain and maintain a firefighter endorsement issued by the department and obtain and maintain a class A, class B, or class C license. To qualify for a firefighter endorsement the driver shall do all of the following:

(1) (A) Provide to the department proof of current employment as a firefighter or registration as a volunteer firefighter with a fire department and evidence of fire equipment operation training by providing a letter, or other indication, from the chief of the fire department, or his or her designee.

(B) For purposes of this section, evidence of fire equipment operation training means the applicant has successfully completed Fire Apparatus Driver/Operator 1A taught by an instructor registered with the Office of the State Fire Marshal or fire department driver training that meets all of the following requirements:

(i) Meets or exceeds the standards outlined in NFPA 1002, Chapter 4 (2008 version) or the Fire Apparatus Driver/Operator 1A course adopted by the Office of the State Fire Marshal.

(ii) Prepares the applicant to safely operate the department's fire equipment that the applicant will be authorized to operate.

(iii) Includes a classroom (cognitive) portion of at least 16 hours.

(iv) Includes a manipulative portion of at least 14 hours, which includes directly supervised behind-the-wheel driver training.

(C) Driver training shall be conducted by a person who is registered with the Office of the State Fire Marshal to instruct Driver/Operator 1A or a person who meets all of the following criteria:

(i) Possesses a minimum of five years of fire service experience as an emergency vehicle operator, three of which must be at the rank of engineer or higher.

(ii) Possesses a valid California class A or B license or a class A or B license restricted to the operation of firefighting equipment.

(iii) Is certified as a qualified training instructor or training officer by the State of California, the federal government, or a county training officers' association.

(2) Pass the written firefighter examination developed by the department with the cooperation of the State Fire Marshal's office.

(3) Submit a report of medical examination on a form approved by the department. The report shall be dated within four years preceding the application date, except as required by paragraph (2) of ~~submission~~ *subdivision* (a) of Section 12804.9. ~~Holders~~ *A holder* of a restricted firefighters license as of January 1, 2011, ~~are~~ *is* not subject to the requirement for a medical ~~exam~~ *examination* until he or she renews his or her license.

(b) There shall be no additional charge for adding a firefighter endorsement to an original license or when renewing a license. To add a firefighter endorsement to an existing license when not renewing the license, the applicant shall pay the fee for a duplicate license pursuant to Section 14901.

(c) (1) A driver of firefighting equipment is subject to the requirements of subdivision (a) if both of the following conditions exist:

(A) The equipment is operated by a person employed as a firefighter by a federal or state agency, by a regularly organized fire department of a city, county, city and county, or district, or by a tribal fire department or registered as a volunteer member of a regularly organized fire department having official recognition of the city, county, city and county, or district in which the department is located, or of a tribal fire department.

(B) The motor vehicle is used to travel to and from the scene of any emergency situation, or to transport equipment used in the control of any emergency situation, and which is owned, leased, or rented by, or under the exclusive control of, a federal or state agency, a regularly organized fire department of a city, county, city and county, or district, a volunteer fire department having official recognition of the city, county, city and county, or district in which the department is located, or a tribal fire department.

(2) A driver of firefighting equipment is not required to obtain and maintain a firefighter endorsement pursuant to subdivision (a) if the driver is operating the firefighting equipment for training purposes, during a nonemergency, while under the direct supervision of a fire department employee who is properly licensed to operate the equipment and is authorized by the fire department to provide training.

(d) For purposes of this section, a tiller operator is the driver of the rear free-axle portion of a ladder truck.

(e) For purposes of this section, "firefighting equipment" means a motor vehicle, that meets the definition of a class A or class B vehicle described in subdivision (b) of Section 12804.9, that is used to travel to and from the scene of an emergency situation, or to transport equipment used in the control of an emergency situation, and that is owned, leased, or rented by, or under the exclusive control of, a federal or state agency, a regularly organized fire department of a city, county, city and county, or district, or a volunteer fire department having official recognition of the city, county, city and county, or district in which the department is located.

(f) Notwithstanding subdivision (a), a regularly organized fire department, having official recognition of the city, county, city and county, or district in which the department is located, may require an employee or a volunteer of the fire department who is a driver or operator of firefighting equipment to hold a class A or B license.

(g) This section applies to a person hired by a fire department, or to a person renewing a driver's license, on or after January 1, 2011.

SEC. 306. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of a person to operate a motor vehicle upon the receipt of an abstract of the record of a court showing that the person has been convicted of a violation of Section 23152 or 23153, subdivision (a) of Section 23109, or Section 23109.1, or upon the receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109 or Section 23109.1. If an offense specified in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified below shall apply to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Sections 15300 to 15302, inclusive. For the purposes of this section, suspension or revocation shall be as follows:

(1) Except as required under Section 13352.1 or 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, the privilege shall be suspended for a period of six ~~months.~~

~~The~~ *months. The* privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll in, participate in, and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in subdivision (b) of Section 23538. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23554, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23556. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll in, participate in, and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in Section 23556. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23540, the privilege shall be suspended for two years. The privilege shall not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of

successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23542. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that he or she may apply to the department for a restriction of the driving privilege, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, subject to the following conditions:

(A) Completion of 12 months of the suspension period, or completion of 90 days of the suspension period if the underlying conviction did not include the use of drugs as defined in Section 312 and the person was found to be only under the influence of an alcoholic beverage at the time of the violation.

(B) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(i) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(C) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in subparagraph (B).

(D) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(E) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(F) The person provides proof of financial responsibility, as defined in Section 16430.

(G) The person pays all reissue fees and any restriction fee required by the department.

(H) The person pays to the department a fee sufficient to cover the costs of administration of this paragraph, as determined by the department.

(I) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(4) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23560, the privilege shall be revoked for a period of three years. The privilege may not be reinstated until the person gives proof of financial responsibility, and the person gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in paragraph (4) of subdivision (b) of Section 23562 *of this code*. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in that 30-month program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(F) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(5) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23546, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of financial responsibility and gives proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) or (c) of Section 23548 *of this code*, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that he or she may apply to the department for a restriction of the driving privilege, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, subject to the following conditions:

(A) Completion of 12 months of the suspension period, or completion of six months of the suspension period if the underlying conviction did not include the use of drugs as defined in Section 312 and the person was found to be only under the influence of an alcoholic beverage at the time of the violation.

(B) The person satisfactorily provides, subsequent to the violation date of the current underlying conviction, either of the following:

(i) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(C) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(D) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(E) The person provides proof of financial responsibility, as defined in Section 16430.

(F) An individual convicted of a violation of Section 23152 punishable under Section 23546 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(G) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(H) The person pays to the department a fee sufficient to cover the costs of administration of this paragraph, as determined by the department.

(I) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(6) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23550.5 or 23566, the privilege shall be revoked for a period of five years. The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23568, or if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the revocation period, which may

include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily provided, subsequent to the violation date of the current underlying conviction, either of the following:

(i) Completion of the initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(ii) Completion of the initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23153 punishable under Section 23566 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(7) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23550 or 23550.5, or of a violation of Section ~~23123~~ *23153* punishable under Section 23550.5, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated

until the person files proof of financial responsibility and gives proof satisfactory to the department of successful completion of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23550 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county

of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (e) of that section or Section 23109.1, the privilege shall be suspended for a period of 90 days to six months, if ordered by the court. The privilege shall not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if ordered by the court. The privilege shall not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109 or Section 23109.1, as specified in subdivision (a) of this section, is a conviction.

(c) A judge of a juvenile court, juvenile hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada that, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and a conviction of an offense that, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of that conviction.

(e) For the purposes of the restriction conditions specified in paragraphs (3) to (7), inclusive, of subdivision (a), the department shall terminate the restriction imposed pursuant to this section and shall suspend or revoke the person's driving privilege upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The person's driving privilege shall remain suspended or revoked for the remaining period of the original suspension or revocation imposed under this section and until all reinstatement requirements described in this section are met.

(f) For the purposes of this section, completion of a program is the following:

(1) Satisfactory completion of all program requirements approved pursuant to program licensure, as evidenced by a certificate of completion issued, under penalty of perjury, by the licensed program.

(2) Certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code, that the person has completed a program specified in Section 8001 of the Penal Code.

(g) The holder of a commercial driver's license who was operating a commercial motor vehicle, as defined in Section 15210, at the time of a violation that resulted in a suspension or revocation of the person's noncommercial driving privilege under this section is not eligible for the restricted driver's license authorized under paragraphs (3) to (7), inclusive, of subdivision (a).

SEC. 307. Section 13557 of the Vehicle Code is amended to read:

13557. (a) The department shall review the determination made pursuant to Section 13353, 13353.1, or 13353.2 relating to ~~any~~ *a* person who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.1, 13353.2, *13382, or* 23612, ~~or 13382~~. The department shall consider the sworn report submitted by the peace officer pursuant to Section 23612 or 13380 and any other evidence accompanying the report.

(b) (1) If the department determines in the review of a determination made under Section 13353 or 13353.1, by a preponderance of the evidence, all of the following facts, the department shall sustain the order of suspension or revocation:

(A) ~~That the~~ *The* peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23136, 23140, 23152, 23153, or 23154.

(B) ~~That the~~ *The* person was placed under arrest or, if the alleged violation was of Section 23136, that the person was lawfully detained.

(C) ~~That the~~ *The* person refused or failed to complete the chemical test or tests after being requested by a peace officer.

(D) ~~That, except~~ *Except* for the persons described in Section 23612 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended or revoked if he or she refused to submit to, and complete, the required testing.

(2) If the department determines, by a preponderance of the evidence, that any of ~~those~~ *the* facts *required under paragraph (1)* were not proven, the department shall rescind the order of suspension or revocation and, ~~provided~~ *if* the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

~~(2)~~

(3) If the department determines in the review of a determination made under Section 13353.2, by the preponderance of the evidence, all of the following facts, the department shall sustain the order of suspension or revocation, or if the person is under 21 years of age and does not yet have a driver's license, the department shall delay issuance of that license for one year:

(A) ~~That the~~ *The* peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23136, 23140, 23152, 23153, or 23154.

(B) ~~That the~~ *The* person was placed under arrest or, if the alleged violation was of Section 23136, ~~that~~ the person was lawfully detained.

(C) ~~That the~~ *The* person was driving a motor vehicle under any of the following circumstances:

(i) When the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(ii) When the person was under ~~the age of~~ 21 years *of age* and had 0.05 percent or more, by weight, of alcohol in his or her blood.

(iii) When the person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or other chemical test.

(iv) When the person was driving a vehicle that requires a commercial driver's license and the person had 0.04 percent or more, by weight, of alcohol in his or her blood.

(v) When the person was on probation for a violation of Section 23152 or 23153 and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test.

(4) If the department determines that any of those facts *required under paragraph (3)* were not proven by the preponderance of the evidence, the department shall rescind the order of suspension or revocation and, ~~provided that~~ *if* the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. For persons under 21 years of age, the determination of the department pursuant to ~~this~~ paragraph *(3)* is final unless a hearing is requested within 10 days of the determination, which hearing shall be conducted according to ~~the provisions of~~ Section 13558. For persons over 21 years of age, the determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(c) The department shall make the determination upon administrative review before the effective date of the order of suspension or revocation.

(d) The administrative review does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department is unable to make a determination on administrative review within the time limit in subdivision (c), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section *13382,* 13388, 13389, *or* 23612, ~~or 13382,~~ the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section *13382,* 13388, 13389, *or* 23612, ~~or 13382,~~ or the expiration date of any previous extension issued pursuant to this subdivision, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(e) A person may request and be granted a hearing pursuant to Section 13558 without first receiving the results of an administrative review pursuant to this section. After receiving a request for a hearing, the department is not required to conduct an administrative review of the same matter pursuant to this section.

(f) A determination of facts by the department under this section has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 308. Section 29004 of the Vehicle Code is amended to read:

29004. (a) (1) Except as required under paragraph (2), a towed vehicle shall be coupled to the towing vehicle by means of a safety chain, cable, or equivalent device in addition to the regular drawbar, tongue, or other connection.

(2) A vehicle towed by a tow truck shall be coupled to the tow truck by means of at least two safety chains in addition to the primary restraining system. The safety chains shall be securely affixed to the truck frame, bed, or towing equipment, independent of the towing sling, wheel lift, or under-reach towing equipment.

(3) A vehicle transported on a slide back carrier or conventional trailer shall be secured by at least four tiedown chains, straps, or an equivalent device, independent of the winch or loading cable. This subdivision does not apply to vehicle bodies that are being transported in compliance with Sections 393.100 to 393.136, inclusive, of Title 49 of the Code of Federal Regulations.

(b) All safety connections and attachments shall be of sufficient strength to control the towed vehicle in the event of failure of the regular hitch, coupling device, drawbar, tongue, or other connection. All safety connections and attachments also shall have a positive means of ensuring that the safety connection or attachment does not become dislodged while in transit.

(c) No more slack may be left in a safety chain, cable, or equivalent device than is necessary to permit proper turning. When a drawbar is used as the towing connection, the safety chain, cable, or equivalent device shall be connected to the towed and towing vehicle and to the drawbar so as to prevent the drawbar from dropping to the ground if the drawbar fails.

(d) Subdivision (a) does not apply to a semitrailer having a connecting device composed of a fifth wheel and kingpin assembly,

and ~~do~~ *does* not apply to a towed motor vehicle when steered by a person who holds a license for the type of vehicle being towed.

(e) For purposes of this section, a "tow truck" includes both of the following:

(1) A repossessor's tow vehicle, as defined in subdivision (b) of Section 615.

(2) An automobile dismantler's tow vehicle, as defined in subdivision (c) of Section 615.

(f) A vehicle towed by a repossessor's tow vehicle, as defined in subdivision (b) of Section 615, is exempt from the multisafety chain requirement of paragraph (2) of subdivision (a) so long as the vehicle is not towed more than one mile on a public highway and is secured by one safety chain.

SEC. 309. Section 34515 of the Vehicle Code is amended to read:

34515. (a) As used in this division and in regulations adopted pursuant ~~thereto~~ *to this division*, "maintenance facility or terminal" means any place or places where a vehicle of a type listed in Section 34500 is regularly garaged or maintained, or from which it is operated or dispatched. "Maintenance facility or terminal" may include a private business or residence.

(b) For the purpose of the inspections required by Section 34501.12, "terminal" means the location or locations in this state ~~which~~ *that* are designated by a motor carrier, where subject vehicles may be inspected by the department pursuant to paragraph ~~(3)~~ *(4)* of subdivision (a) of Section 34501, and where vehicle maintenance and inspection records and drivers' records will be made available for inspection.

SEC. 310. Section 40305.5 of the Vehicle Code is amended to read:

40305.5. (a) ~~Whenever~~ *If* a nonresident is arrested for violating ~~any section of~~ this code while driving a commercially registered motor vehicle, excluding house cars, with an unladen weight of 7,000 pounds or more, and does not furnish satisfactory evidence of identity and an address within this state at which he or she can be located, the arresting officer may, in lieu of the procedures set forth in Section 40305, accept a guaranteed traffic arrest bail bond certificate, and the nonresident shall be released from custody upon giving a written promise to appear as provided in Article 2 (commencing with Section 40500). The officer may require the

arrested person, if he or she has no satisfactory identification, to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear as provided in Article 2 ~~(commending~~ *(commencing* with Section 45000). Except for law enforcement purposes relating to the identity of the arrestee, ~~no~~ *a* person or entity ~~may~~ *shall not* sell, give away, allow the distribution of, include in a database, or create a database with, this print.

(b) Every guaranteed traffic arrest bail bond certificate shall contain all of the following information:

(1) The name and address of the surety and of the issuer, if other than the surety.

(2) The name, address, driver's license number and signature of the individual covered by the certificate.

(3) The maximum amount guaranteed.

(4) Exclusions from coverage.

(5) A statement that the issuing company guarantees the appearance of a person to whom a guaranteed traffic arrest bail bond certificate is issued and, in the event of *the* failure of the person to appear in court at the time of trial, the issuing company shall pay any fine or forfeiture imposed on the person, not to exceed the amount stated on the certificate.

(6) The expiration date of the certificate.

(c) A guaranteed traffic arrest bail bond certificate may be issued by a surety admitted in this state. The certificate may also be issued by an association of motor carriers if all of the following conditions are met:

(1) The association is incorporated, or authorized to do business, in this state.

(2) The association is covered by a guaranteed traffic arrest bail bond issued by a surety admitted in this state.

(3) The association agrees to pay fines or bail assessed against the guaranteed traffic arrest bail bond certificate.

(4) The surety guarantees payment of fines or bail assessed against the guaranteed traffic arrest bail bond certificates issued by the association.

(d) The arresting officer shall file the guaranteed traffic arrest bail bond certificate with the notice to appear required to be filed by Section 40506.

(e) A "guaranteed traffic arrest bail bond certificate" is a document ~~which~~ *that* guarantees the payment of fines or bail assessed against an individual for violation of this code, except driving while under the influence of alcohol or drugs, driving without a license or driving with a suspended or revoked license, operating a motor vehicle without the permission of the owner, or any violation punishable as a felony.

(f) A "guaranteed traffic arrest bail bond" is a bond issued by a surety guaranteeing the obligations of the issuer of guaranteed traffic arrest bail bond certificates. The bond shall be in the amount of fifty thousand dollars ($50,000) and shall be filed with the Secretary of State. Any court in this state may assess against the surety the amount of covered fines or bail ~~which~~ *that* the issuer of a guaranteed traffic arrest bail bond certificate fails to pay.

(g) (1) A person contesting a charge by claiming under penalty of perjury not to be the person issued the notice to appear may choose to submit a right thumbprint, or a left thumbprint if the person has a missing or disfigured right thumb, to the issuing court through his or her local law enforcement agency for comparison with the one placed on the notice to appear. A local law enforcement agency providing this service may charge the requester no more than the actual costs. The issuing court may refer the thumbprint submitted and the notice to appear to the prosecuting attorney for comparison of the thumbprints. ~~When~~ *If* there is no thumbprint or fingerprint on the notice to appear~~,~~ or ~~when~~ the comparison of thumbprints is inconclusive, the court shall refer the notice to appear or copy ~~thereof~~ *of the notice to appear* back to the issuing agency for further investigation, unless the court finds that referral is not in the interest of justice.

(2) Upon initiation of the investigation or comparison process by referral of the court, the court shall continue the case and the speedy trial period shall be tolled for 45 days.

(3) Upon receipt of the issuing agency's or prosecuting attorney's response, the court may make a finding of factual innocence pursuant to Section 530.6 of the Penal Code if the court determines that there is insufficient evidence that the person cited is the person charged and shall immediately notify the Department of Motor Vehicles of its determination. If the Department of Motor Vehicles determines the citation or citations in question formed

the basis of a suspension or revocation of the person's driving privilege, the department shall immediately set aside the action.

(4) If the prosecuting attorney or issuing agency fails to respond to a court referral within 45 days, the court shall make a finding of factual innocence pursuant to Section 530.6 of the Penal Code, unless the court determines that a finding of factual innocence is not in the interest of justice.

(5) The citation or notice to appear may be held by the prosecuting attorney or issuing agency for future adjudication should the arrestee who received the citation or notice to appear be found.

SEC. 311. Section 41501 of the Vehicle Code, as added by Chapter 599 of the Statutes of 2010, is amended to read:

41501. (a) After a deposit of bail and bail forfeiture, a plea of guilty or no contest, or a conviction, the court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for successful completion of a course of instruction at a licensed school for traffic violators and pursuant to Section 1803.5 or 42005, the court may order that the conviction be held confidential by the department ~~according to~~ *in accordance with* Section 1808.7. The court shall notify a person that only one conviction within 18 months will be held confidential.

(b) Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810.

(c) This section shall become operative on July 1, 2011.

SEC. 312. Section 1126 of the Water Code is amended to read:

1126. (a) It is the intent of the Legislature that all issues relating to state water law decided by the board be reviewed in state courts, if a party seeks judicial review. It is further the intent of the Legislature that the courts assert jurisdiction and exercise discretion to fashion appropriate remedies pursuant to Section 389 of the Code of Civil Procedure to facilitate the resolution of state water rights issues in state courts.

(b) Any party aggrieved by any decision or order may, not later than 30 days from the date of final action by the board, file a petition for a writ of mandate for review of the decision or order.

Except in cases where the decision or order is issued under authority delegated to an officer or employee of the board, reconsideration before the board is not an administrative remedy that is required to be exhausted before filing a petition for writ of mandate. The time for filing the petition for writ of mandate and the time for filing an action or proceeding in which the board is a respondent under Section 21167 of the Public Resources Code shall be extended for any person who seeks reconsideration by the board pursuant to this article. The amendment of this subdivision made during the 2001 portion of the 2001–02 Regular Session does not constitute a change in, but is declaratory of, existing law.

(c) Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings under this section. For the purposes of subdivision (c) of Section 1094.5 of the Code of Civil Procedure, the court shall exercise its independent ~~judgement~~ *judgment* on the evidence in any case involving the judicial review of a cease and desist order issued pursuant to Article 2 (commencing with Section 1831) of Chapter 12 of Part 2 of Division 2, and in any other case in which the court is authorized by law to exercise its independent ~~judgement~~ *judgment* on the evidence.

(d) If no aggrieved party petitions for a writ of mandate within the time provided by this section, the decision or order of the board is not subject to review by any court.

(e) In any court case reviewing a decision or order by the ~~state~~ board relating to a permit or license to appropriate water held by the state through the department or any other state agency, or to a permit or license to appropriate water held by the United States through the Bureau of Reclamation or any other federal agency, the election by the United States, or any agency thereof, not to be a party shall not, in and of itself, be the basis for dismissal pursuant to Section 389 of the Code of Civil Procedure or any other provision of law.

SEC. 313. Section 12986 of the Water Code, as amended by Section 1 of Chapter 23 of the Statutes of 2010, is amended to read:

12986. (a) It is the intention of the Legislature to reimburse an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of project or nonproject levee is one thousand dollars ($1,000) or less.

(2) Not more than 75 percent of any costs incurred in excess of one thousand dollars ($1,000) per mile of project or nonproject levee shall be reimbursed.

(3) (A) As part of the project plans approved by the board, the department shall require the local agency or an independent financial consultant to provide information regarding the agency's ability to pay for the cost of levee maintenance or improvement. Based on that information, the department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.

(B) The information or comprehensive study of the agency's ability to pay shall be the basis for determining the maximum allowable reimbursement eligible under this part. Nothing in this paragraph shall be interpreted to increase the maximum reimbursement allowed under paragraph (2).

(4) Reimbursements made to the local agency in excess of the maximum allowable reimbursement shall be returned to the department.

(5) The department may recover, retroactively, excess reimbursements paid to the local agency from any time after January 1, 1997, based on an updated study of the agency's ability to pay.

(6) All final costs allocated or reimbursed under a plan shall be approved by the reclamation board for project and nonproject levee work.

(7) Costs incurred pursuant to this part that are eligible for reimbursement include construction costs and associated engineering services, financial or economic analyses, environmental costs, mitigation costs, and habitat improvement costs.

(b) Upon completion of its evaluation pursuant to Sections 139.2 and 139.4, by January 1, 2008, the department shall recommend to the Legislature and the Governor priorities for funding under this section.

(c) Reimbursements made pursuant to this section shall reflect the priorities of, and be consistent with, the Delta Plan established pursuant to Chapter 1 (commencing with Section 85300) of Part

4 of Division ~~25, as enacted by Section 39 of Chapter 5 of the Seventh Extraordinary Session of the Statutes of 2009~~ *35*.

(d) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 314. Section 13385 of the Water Code is amended to read:

13385. (a) A person who violates any of the following shall be liable civilly in accordance with this section:

(1) Section 13375 or 13376.

(2) A waste discharge requirement or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) A requirement established pursuant to Section 13383.

(4) An order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(5) A requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the *federal* Clean Water Act *(33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1341, or 1342)*, as amended.

(6) A requirement imposed in a pretreatment program approved pursuant to waste discharge requirements issued under Section 13377 or approved pursuant to a permit issued by the administrator.

(b) *(1)* Civil liability may be imposed by the superior court in an amount not to exceed the sum of both of the following:

~~(1)~~

(A) Twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

~~(2)~~

(B) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed twenty-five dollars ($25) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(2) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose the liability.

(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed the sum of both of the following:

(1) Ten thousand dollars ($10,000) for each day in which the violation occurs.

(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars ($10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

(d) For purposes of subdivisions (b) and (c), "discharge" includes any discharge to navigable waters of the United States, any introduction of pollutants into a publicly owned treatment works, or any use or disposal of sewage sludge.

(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

(f) (1) Except as provided in paragraph (2), for the purposes of this section, a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(2) (A) For the purposes of subdivisions (h) and (i), a single operational upset in a wastewater treatment unit that treats wastewater using a biological treatment process shall be treated as a single violation, even if the operational upset results in violations of more than one effluent limitation and the violations continue for a period of more than one day, if all of the following apply:

(i) The discharger demonstrates all of the following:

(I) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

(II) But for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.

(III) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

(ii) The discharger is implementing an approved pretreatment program, if so required by federal or state law.

(B) Subparagraph (A) only applies to violations that occur during a period for which the regional board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

(g) Remedies under this section are in addition to, and do not supersede or limit, any other remedies, civil or criminal, except that no liability shall be recoverable under Section 13261, 13265, 13268, or 13350 for violations for which liability is recovered under this section.

(h) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (*l*), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each serious violation.

(2) For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

(i) (1) Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (*l*), a mandatory minimum penalty of three thousand dollars ($3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

(2) For the purposes of this section, a "period of six consecutive months" means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.

(j) Subdivisions (h) and (i) do not apply to any of the following:

(1) A violation caused by one or any combination of the following:

(A) An act of war.

(B) An unanticipated, grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(C) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(D) (i) The operation of a new or reconstructed wastewater treatment unit during a defined period of adjusting or testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit, if all of the following requirements are met:

(I) The discharger has submitted to the regional board, at least 30 days in advance of the operation, an operations plan that describes the actions the discharger will take during the period of adjusting and testing, including steps to prevent violations and identifies the shortest reasonable time required for the period of adjusting and testing, not to exceed 90 days for a wastewater treatment unit that relies on a biological treatment process and not to exceed 30 days for any other wastewater treatment unit.

(II) The regional board has not objected in writing to the operations plan.

(III) The discharger demonstrates that the violations resulted from the operation of the new or reconstructed wastewater

treatment unit and that the violations could not have reasonably been avoided.

(IV) The discharger demonstrates compliance with the operations plan.

(V) In the case of a reconstructed wastewater treatment unit, the unit relies on a biological treatment process that is required to be out of operation for at least 14 days in order to perform the reconstruction, or the unit is required to be out of operation for at least 14 days and, at the time of the reconstruction, the cost of reconstructing the unit exceeds 50 percent of the cost of replacing the wastewater treatment unit.

(ii) For the purposes of this section, "wastewater treatment unit" means a component of a wastewater treatment plant that performs a designated treatment function.

(2) (A) Except as provided in subparagraph (B), a violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all of the following requirements are met:

(i) The cease and desist order or time schedule order is issued after January 1, 1995, but not later than July 1, 2000, specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i), and the date by which compliance is required to be achieved and, if the final date by which compliance is required to be achieved is later than one year from the effective date of the cease and desist order or time schedule order, specifies the interim requirements by which progress towards compliance will be measured and the date by which the discharger will be in compliance with each interim requirement.

(ii) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan that meets the requirements of Section 13263.3.

(iii) The discharger demonstrates that it has carried out all reasonable and immediately feasible actions to reduce noncompliance with the waste discharge requirements applicable to the waste discharge and the executive officer of the regional board concurs with the demonstration.

(B) Subdivisions (h) and (i) shall become applicable to a waste discharge on the date the waste discharge requirements applicable to the waste discharge are revised and reissued pursuant to Section 13380, unless the regional board does all of the following on or before that date:

(i) Modifies the requirements of the cease and desist order or time schedule order as may be necessary to make it fully consistent with the reissued waste discharge requirements.

(ii) Establishes in the modified cease and desist order or time schedule order a date by which full compliance with the reissued waste discharge requirements shall be achieved. For the purposes of this subdivision, the regional board may not establish this date later than five years from the date the waste discharge requirements were required to be reviewed pursuant to Section 13380. If the reissued waste discharge requirements do not add new effluent limitations or do not include effluent limitations that are more stringent than those in the original waste discharge requirements, the date shall be the same as the final date for compliance in the original cease and desist order or time schedule order or five years from the date that the waste discharge requirements were required to be reviewed pursuant to Section 13380, whichever is earlier.

(iii) Determines that the pollution prevention plan required by clause (ii) of subparagraph (A) is in compliance with the requirements of Section 13263.3 and that the discharger is implementing the pollution prevention plan in a timely and proper manner.

(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(ii) New methods for detecting or measuring a pollutant in the waste discharge demonstrate that new or modified control measures are necessary in order to comply with the effluent limitation and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(iii) Unanticipated changes in the quality of the municipal or industrial water supply available to the discharger are the cause of unavoidable changes in the composition of the waste discharge, the changes in the composition of the waste discharge are the cause of the inability to comply with the effluent limitation, no alternative water supply is reasonably available to the discharger, and new or modified measures to control the composition of the waste discharge cannot be designed, installed, and put into operation within 30 calendar days.

(iv) The discharger is a publicly owned treatment works located in Orange County that is unable to meet effluent limitations for biological oxygen demand, suspended solids, or both, because the publicly owned treatment works meets all of the following criteria:

(I) Was previously operating under modified secondary treatment requirements pursuant to Section 301(h) of the Clean Water Act (33 U.S.C. Sec. 1311(h)).

(II) Did vote on July 17, 2002, not to apply for a renewal of the modified secondary treatment requirements.

(III) Is in the process of upgrading its treatment facilities to meet the secondary treatment standards required by Section 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec. 1311(b)(1)(B)).

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except

as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

(ii) (I) For purposes of the upgrade described in subclause (III) of clause (iv) of subparagraph (B), the time schedule shall not exceed 10 years in length.

(II) Following a public hearing, and upon a showing that the discharger is making diligent progress toward bringing the waste discharge into compliance with the effluent limitation, the regional board may extend the time schedule for an additional period not exceeding five years in length, if the discharger demonstrates that the additional time is necessary to comply with the effluent limitation. This subclause does not apply to a time schedule described in subclause (I).

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

(k) (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:

(A) The compliance project is designed to correct the violations within five years.

(B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.

(C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.

(2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.

(*l*) (1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the state board or the regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars ($15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars ($15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars ($15,000).

(2) For the purposes of this section, a "supplemental environmental project" means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section.

(3) This subdivision applies to the imposition of penalties pursuant to subdivision (h) or (i) on or after January 1, 2003, without regard to the date on which the violation occurs.

(m) The Attorney General, upon request of a regional board or the state board, shall petition the appropriate court to collect any liability or penalty imposed pursuant to this section. Any person who fails to pay on a timely basis any liability or penalty imposed under this section shall be required to pay, in addition to that liability or penalty, interest, attorney's fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. The nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of the person's penalty and nonpayment penalties that are unpaid as of the beginning of the quarter.

(n) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, moneys collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the *federal* Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (5) of subdivision (a) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in Section 13443.

(o) The state board shall continuously report and update information on its Internet Web site, but at a minimum, annually on or before January 1, regarding its enforcement activities. The information shall include all of the following:

(1) A compilation of the number of violations of waste discharge requirements in the previous calendar year, including stormwater enforcement violations.

(2) A record of the formal and informal compliance and enforcement actions taken for each violation, including stormwater enforcement actions.

(3) An analysis of the effectiveness of current enforcement policies, including mandatory minimum penalties.

(p) The amendments made to subdivisions (f), (h), (i), and (j) during the second year of the 2001–02 Regular Session apply only to violations that occur on or after January 1, 2003.

SEC. 315. Section 85031 of the Water Code is amended to read:

85031. (a) This division does not diminish, impair, or otherwise affect in any manner whatsoever any area of origin, watershed of origin, county of origin, or any other water rights protections, including, but not limited to, rights to water appropriated prior to December 19, 1914, provided under the law. This division does not limit or otherwise affect the application of Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and Sections 12200 to 12220, inclusive.

(b) For the purposes of this division, an area that utilizes water that has been diverted and conveyed from the Sacramento River hydrologic region, for use outside the Sacramento River hydrologic region or the Delta, shall not be deemed to be immediately adjacent thereto or capable of being conveniently supplied with water therefrom by virtue or on account of the diversion and conveyance of that water through facilities that may be constructed for that purpose after January 1, 2010.

(c) Nothing in this division supersedes, limits, or otherwise modifies the applicability of Chapter 10 (commencing with Section 1700) of Part 2 of Division 2, including petitions related to any new conveyance constructed or operated in accordance with Chapter 2 (commencing with Section 85320) of Part 4 ~~of Division 35~~.

(d) Unless otherwise expressly provided, nothing in this division supersedes, reduces, or otherwise affects existing legal protections, both procedural and substantive, relating to the state board's regulation of diversion and use of water, including, but not limited to, water right priorities, the protection provided to municipal interests by Sections 106 and 106.5, and changes in water rights. Nothing in this division expands or otherwise alters the board's existing authority to regulate the diversion and use of water or the courts' existing concurrent jurisdiction over California water rights.

SEC. 316. Section 85034 of the Water Code is amended to read:

85034. (a) (1) The council shall administer all contracts, grants, easements, and agreements made or entered into by the California Bay-Delta Authority under Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009.

(2) The exercise of the authority described in paragraph (1) is not subject to review or approval by the Department of General Services.

(3) A contract, lease, license, or any other agreement to which the California Bay-Delta Authority is a party is not void or voidable as a result of the implementation of this subdivision, but shall continue in full force and effect until the end of its term.

(b) The council shall be the successor to and shall assume from the California Bay-Delta Authority all of the administrative rights, abilities, obligations, and duties of that authority.

(c) The council shall have possession and control of all records, papers, equipment, supplies, contracts, leases, agreements, and other property, real or personal, connected with the administration of Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009, or held for the benefit or use of the California Bay-Delta Authority.

(d) The council shall assume from the California Bay-Delta Authority all responsibility to manage, in accordance with Chapter 5 (commencing with Section 85280) of Part 3, the science program element that was required to be undertaken by Division 26.4 (commencing with Section 79400), *as that division read on December 31, 2009*.

(e) Consistent with the responsibilities and duties assumed by the council pursuant to this section, all staff, resources, and funding within the Natural Resources Agency and the Department of Forestry and Fire Protection for the support of the CALFED Bay-Delta Program are hereby transferred to, and may be expended for the purposes of, the council. The executive officer of the council shall confer with the Director of Fish and Game, the director of the department, and the executive director of the board regarding possible reallocation of the staff and resources. The status, position, and rights of any officer or employee shall not be affected by this transfer and all officers and employees shall be retained pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

SEC. 317. Section 85230 of the Water Code is amended to read:

85230. (a) The board, in consultation with the council, shall appoint, for a term of four years, a special master for the Delta, whose title shall be "the Delta Watermaster."

(b) The board shall adopt internal procedures delegating authority to the Delta Watermaster. The Delta Watermaster shall exercise the board's authority to provide timely monitoring and enforcement of board orders and license and permit terms and conditions. The Delta Watermaster's delegated authority shall include authority to require monitoring and reporting, authority for approvals delegated to an officer or employee of the board by the terms of a water right permit or license, authority to approve temporary urgency changes pursuant to Chapter 6.6 (commencing with Section 1435) of Part 2 of Division 2, and authority to issue

a notice of *a* proposed cease and desist order or administrative civil liability complaint. The Delta Watermaster's authority shall be limited to diversions in the Delta, and for the monitoring and enforcement of the board's orders and license and permit terms and conditions that apply to conditions in the Delta.

(c) The internal procedures adopted by the board shall provide for due process in adjudicative proceedings, and may establish procedures for the issuance of a stay of any order or decision of the Delta Watermaster for which a petition for reconsideration is filed or reconsideration is ordered under Section 1122. The board may provide any additional duties or needs of the Delta Watermaster that the board deems necessary for effective day-to-day enforcement of its decisions.

(d) The Delta Watermaster shall submit regular reports to the board and the council including, but not limited to, reports on water rights administration, water quality issues, and conveyance operations.

SEC. 318. Section 366.24 of the Welfare and Institutions Code is amended to read:

366.24. (a) For purposes of this section, "tribal customary adoption" means adoption by and through the tribal custom, traditions, or law of an Indian child's tribe. Termination of parental rights is not required to effect the tribal customary adoption.

(b) Whenever an assessment is ordered pursuant to Section 361.5, 366.21, 366.22, 366.25, or 366.26 for Indian children, the assessment shall address the option of tribal customary adoption.

(c) For purposes of Section 366.26, in the case of tribal customary adoptions, all of the following apply:

(1) The child's tribe or the tribe's designee shall conduct a tribal customary adoptive home study prior to final approval of the tribal customary adoptive placement.

(A) If a tribal designee is conducting the home study, the designee shall do so in consultation with the Indian child's tribe. The designee may include a licensed county adoption agency, the State Department of Social Services when it is acting as an adoption agency in counties not served by a county adoption agency, or a California-licensed adoption agency. Any tribal designee must be an entity that is authorized to request a search of the Child Abuse Central Index and, if necessary, a check of any other state's child abuse and neglect registry, and must be an entity

that is authorized to request a search for state and federal level criminal offender records information through the Department of Justice.

(B) The standard for the evaluation of the prospective adoptive parents' home shall be the prevailing social and cultural standard of the child's tribe. The home study shall include an evaluation of the background, safety, and health information of the adoptive home, including the biological, psychological, and social factors of the prospective adoptive parent or parents, and an assessment of the commitment, capability, and suitability of the prospective adoptive parent or parents to meet the child's needs.

(2) In all cases, an in-state check of the Child Abuse Central Index and, if necessary, a check of any other state's child abuse and neglect registry shall be conducted. If the tribe chooses a designee to conduct the home study, the designee shall perform a check of the Child Abuse Central Index pursuant to Section 1522.1 of the Health and Safety Code as it applies to prospective adoptive parents and persons over 18 years of age residing in their household. If the tribe conducts its own home study, the agency that has the placement and care responsibility of the child shall perform the check.

(3) (A) In all cases prior to final approval of the tribal customary adoptive placement, a state and federal criminal background check through the Department of Justice shall be conducted on the prospective tribal customary adoptive parents and on persons over 18 years of age residing in their household.

(B) If the tribe chooses a designee to conduct the home study, the designee shall perform the state and federal criminal background check required pursuant to subparagraph (A) through the Department of Justice prior to final approval of the adoptive placement.

(C) If the tribe conducts its own home study, the public adoption agency that is otherwise authorized to obtain criminal background information for the purpose of adoption shall perform the state and federal criminal background check required pursuant to subparagraph (A) through the Department of Justice prior to final approval of the adoptive placement.

(D) An individual who is the subject of a background check conducted pursuant to this paragraph may be provided, by the entity performing the background check, with a copy of his or her

state or federal level criminal offender record information search response as provided to that entity by the Department of Justice if the entity has denied a criminal background clearance based on this information and the individual makes a written request to the entity for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The entity shall retain a copy of the individual's written request and the response and date provided.

(4) If federal or state law provides that tribes may conduct all required background checks for prospective adoptive parents, the tribally administered background checks shall satisfy the requirements of this section, so long as the standards for the background checks are the same as those applied to all other prospective adoptive parents in the State of California.

(5) Under no circumstances shall final approval be granted for an adoptive placement in any home if the prospective adoptive parent or any adult living in the prospective tribal customary adoptive home has any of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A) and subparagraph (B), or paragraph (1) of, subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug-related offense.

(6) If the tribe identifies tribal customary adoption as the permanent placement plan for the Indian child, the court may continue the selection and implementation hearing governed by Section 366.26 for a period not to exceed 120 days to permit the tribe to complete the process for tribal customary adoption and file with the court a tribal customary adoption order evidencing that a tribal customary adoption has been completed. The tribe shall file with the court the tribal customary adoption order no less than 20 days prior to the date set by the court for the continued

selection and implementation hearing. The department shall file with the court the addendum selection and implementation hearing court report no less than seven days prior to the date set by the court for the continued selection and implementation hearing. The court shall have discretion to grant an additional continuance to the tribe for filing a tribal customary adoption order up to, but not exceeding, 60 days. If the child's tribe does not file the tribal customary adoption order within the designated time period, the court shall make new findings and orders pursuant to subdivision (b) of Section 366.26 and this subdivision to determine the best permanent plan for the child.

(7) The child, birth parents, or Indian custodian and the tribal customary adoptive parents and their counsel, if applicable, may present evidence to the tribe regarding the tribal customary adoption and the child's best interest.

(8) Upon the court affording full faith and credit to the tribal customary adoption order and the tribe's approval of the home study, the child shall be eligible for tribal customary adoptive placement. The agency that has placement and care responsibility of the child shall be authorized to make a tribal customary adoptive placement and sign a tribal customary adoptive placement agreement and, thereafter, shall sign the adoption assistance agreement pursuant to subdivision (g) of Section 16120. The prospective adoptive parent or parents desiring to adopt the child may then file the petition for adoption. The agency shall supervise the adoptive placement for a period of six months unless either of the following circumstances exists:

(A) The child to be adopted is a foster child of the prospective adoptive parents whose foster care placement has been supervised by an agency before the signing of the adoptive placement agreement in which case the supervisory period may be shortened by one month for each full month that the child has been in foster care with the family.

(B) The child to be adopted is placed with a relative with whom ~~they have~~ *he or she has* an established relationship.

(9) All licensed public adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to tribal customary adoptees or prospective tribal customary adoptive parents of pertinent medical information reported to the department or the licensed

public adoption agency, upon the request of the person reporting the medical information.

(A) A licensed public adoption agency may not place a child for tribal customary adoption unless a written report on the child's medical background and, if available, the medical background on the child's biological parents, so far as ascertainable, has been submitted to the prospective tribal customary adoptive parents and they have acknowledged in writing the receipt of the report.

(B) The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history.

(10) The tribal customary adoption order shall include, but not be limited to, a description of (A) the modification of the legal relationship of the birth parents or Indian custodian and the child, including contact, if any, between the child and the birth parents or Indian custodian, responsibilities of the birth parents or Indian custodian, and the rights of inheritance of the child and (B) the child's legal relationship with the tribe. The order shall not include any child support obligation from the birth parents or Indian custodian. There shall be a conclusive presumption that any parental rights or obligations not specified in the tribal customary adoption order shall vest in the tribal customary adoptive parents.

(11) Prior consent to a permanent plan of tribal customary adoption of an Indian child shall not be required of an Indian parent or Indian custodian whose parental relationship to the child will be modified by the tribal customary adoption.

(12) After the prospective adoptive parent or parents desiring to adopt the child have filed the adoption petition, the agency that has placement, care, and responsibility for the child shall submit to the court, a full and final report of the facts of the proposed tribal customary adoption. The requisite elements of the final court report shall be those specified for court reports in the department's regulations governing agency adoptions.

(13) Notwithstanding any other provision of law, after the tribal customary adoption order has been issued and afforded full faith and credit by the state court, supervision of the adoptive placement has been completed, and the state court has issued a final decree of adoption, the tribal customary adoptive parents shall have all

of the rights and privileges afforded to, and are subject to all the duties of, any other adoptive parent or parents pursuant to the laws of this state.

(14) Consistent with Section 366.3, after the tribal customary adoption has been afforded full faith and credit and a final adoption decree has been issued, the court shall terminate its jurisdiction over the Indian child.

(15) Nothing in this section is intended to prevent the transfer of those proceedings to a tribal court where transfer is otherwise permitted under applicable law.

(d) The following disclosure provisions shall apply to tribal customary adoptions:

(1) The petition, agreement, order, report to the court from any investigating agency, and any power of attorney filed in a tribal customary adoption proceeding is not open to inspection by any person other than the parties to the proceeding and their attorneys and the department, except upon the written authority of the judge of the juvenile court. A judge may not authorize anyone to inspect the petition, agreement, order, report to the court from any investigating agency, and any power of attorney except in exceptional circumstances and for good cause approaching the necessitous.

(2) Except as otherwise permitted or required by statute, neither the department nor any licensed adoption agency shall release information that would identify persons who receive, or have received, tribal customary adoption services. However, employees of the department and licensed adoption agencies shall release to the State Department of Social Services any requested information, including identifying information, for the purpose of recordkeeping and monitoring, evaluation, and regulation of the provision of tribal customary adoption services.

(3) The department and any licensed adoption agency may, upon written authorization for the release of specified information by the subject of that information, share information regarding a prospective tribal customary adoptive parent or birth parent with other social service agencies, including the department and other licensed adoption agencies, or providers of health care as defined in Section 56.05 of the Civil Code.

(4) Notwithstanding any other law, the department and any other licensed adoption agency may furnish information relating to a

tribal customary adoption petition or to a child in the custody of the department or any licensed public adoption agency to the juvenile court, county welfare department, public welfare agency, private welfare agency licensed by the department, provider of foster care services, potential adoptive parents, or provider of health care as defined in Section 56.05 of the Civil Code, if it is believed the child's welfare will be promoted thereby.

(5) The department and any licensed adoption agency may make tribal customary adoption case records, including identifying information, available for research purposes, provided that the research will not result in the disclosure of the identity of the child or the parties to the tribal customary adoption to anyone other than the entity conducting the research.

(e) This section shall remain operative only to the extent that compliance with its provisions does not conflict with federal law as a condition of receiving funding under Title IV-E or the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(f) The Judicial Council shall adopt rules of court and necessary forms required to implement tribal customary adoption as a permanent plan for dependent Indian children. The Judicial Council shall study California's tribal customary adoption provisions and their ~~affects~~ *effects* on children, birth parents, adoptive parents, Indian custodians, tribes, and the court, and shall report all of its findings to the Legislature on or before January 1, 2013. The report shall include, but not be limited to, the following:

(1) The number of families served and the number of completed tribal customary adoptions.

(2) The length of time it takes to complete a tribal customary adoption.

(3) The challenges faced by social workers, court, and tribes in completing tribal customary adoptions.

(4) The benefits or detriments to Indian children from a tribal customary adoption.

(g) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 319. Section 4360 of the Welfare and Institutions Code is amended to read:

4360. (a) The department shall provide mental health treatment and supervision in the community for judicially committed persons.

The program established and administered by the department under this chapter to provide these services shall be known as the Forensic Conditional Release Program and may be used by the department in accordance with this section to provide services in the community to other patient populations for which the department has direct responsibility.

(b) The department may provide directly, or through contract with private providers or counties, for these services, including administrative and ancillary services related to the provision of direct services. These contracts shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services. Subject to approval by the department, a county or private provider under contract to the department to provide these services may subcontract with private providers for those services.

(c) Notwithstanding Section 5328, programs providing services pursuant to this section may inform *a* local law enforcement ~~agencies~~ *agency* of the names and addresses of program participants who reside within that agency's jurisdiction. Providing notice under this subdivision does not relieve a person or entity of any statutory duty.

SEC. 320. Section 4695.2 of the Welfare and Institutions Code is amended to read:

4695.2. (a) Each direct care staff person employed in a licensed community care facility that receives regional center funding shall be required to satisfactorily complete two 35-hour competency-based training courses approved, after consultation with the Community Care Facility Direct Care Training Work Group, by the department or pass a department-approved competency test for each of the 35-hour training segments. Each direct care staff person to whom this subdivision applies shall demonstrate satisfactory completion of the competency-based training by passing a competency test applicable to that training segment.

(b) Each direct care staff person employed prior to January 1, 2001, in a licensed community care facility that receives regional center funding shall satisfactorily complete the first required competency-based training course or pass a department-approved competency test applicable to that training segment by January 1,

2002, and satisfactorily complete the second competency-based training course or pass a department-approved competency test applicable to that training segment by January 1, 2003.

(c) Each direct care staff person whose employment in a licensed community care facility that receives regional center funding commences on or after January 1, 2001, shall satisfactorily complete the first required competency-based training course or pass a department-approved competency test applicable to that training segment within one year from the date the staff person was hired, and satisfactorily complete the second competency-based training course or pass a department-approved competency test applicable to that training segment within two years from the date the person was hired.

(d) A direct care staff person who does not comply with ~~the requirements of~~ this section may not continue to provide direct care to consumers in a licensed community care facility that receives regional center funding, unless otherwise approved by the department pursuant to conditions for a waiver specified in regulations adopted pursuant to subdivision (e).

(e) The department shall adopt emergency regulations in order to implement this section. These regulations may include, but are not limited to, all of the following:

(1) Requirements for satisfactory completion of the 70 hours of direct care staff training.

(2) Provisions for enforcement of training requirements.

(3) Continuing education requirements beyond the initial 70 hours of required training.

(4) Provisions for waiving staff training and competency testing requirements, provided that waivers shall not adversely impact the health and safety of consumers living in licensed community care facilities that receive regional center funding.

(f) The emergency regulations adopted by the department pursuant to subdivision (e) shall be in accordance with the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of

those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect for no more than 180 days.

SEC. 321. Section 5778 of the Welfare and Institutions Code is amended to read:

5778. (a) This section shall be limited to specialty mental health services reimbursed through a fee-for-service payment system.

(b) The following provisions shall apply to matters related to specialty mental health services provided under the Medi-Cal specialty mental health services waiver, including, but not limited to, reimbursement and claiming procedures, reviews and oversight, and appeal processes for mental health plans (MHPs) and MHP subcontractors.

(1) During the initial phases of the implementation of this part, as determined by the department, the MHP contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(2) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(3) (A) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Care Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.

(B) The department, in consultation with the State Department of Health Care Services, a statewide organization representing counties, and a statewide organization representing health

maintenance organizations shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to MHPs. In developing the timeline, the department shall develop screening, referral, and coordination guidelines to be used by Medi-Cal managed care plans and MHPs.

(4) (A) (i) ~~A~~ *An* MHP subcontractor providing specialty mental health services shall be financially responsible for federal audit exceptions or disallowances to the extent that these exceptions or disallowances are based on the MHP subcontractor's conduct or determinations.

(ii) The state shall be financially responsible for federal audit exceptions or disallowances to the extent that these exceptions or disallowances are based on the state's conduct or determinations. The state shall not withhold payment from ~~a~~ *an* MHP for exceptions or disallowances that the state is financially responsible for pursuant to this clause.

(iii) ~~A~~ *An* MHP shall be financially responsible for state audit exceptions or disallowances to the extent that these exceptions or disallowances are based on the MHP's conduct or determinations. ~~A~~ *An* MHP shall not withhold payment from ~~a~~ *an* MHP subcontractor for exceptions or disallowances for which the MHP is financially responsible pursuant to this clause.

(B) For purposes of subparagraph (A), a "determination" shall be shown by a written document expressly stating the determination, while "conduct" shall be shown by any credible, legally admissible evidence.

(C) The department and the State Department of Health Care Services shall work jointly with MHPs in initiating any necessary appeals. The department may invoice or offset the amount of any federal disallowance or audit exception against subsequent claims from the MHP or MHP subcontractor. This offset may be done at any time, after the audit exception or disallowance has been withheld from the federal financial participation claim made by the State Department of Health Care Services. The maximum amount that may be withheld shall be 25 percent of each payment to the plan or subcontractor.

(5) (A) Oversight by the department of the MHPs and MHP subcontractors may include client record reviews of Early Periodic Screening Diagnosis and Treatment (EPSDT) specialty mental

health services under the Medi-Cal specialty mental health services waiver in addition to other audits or reviews that are conducted.

(B) The department may contract with an independent, nongovernmental entity to conduct client record reviews. The contract awarded in connection with this section shall be on a competitive bid basis, pursuant to the Department of General Services contracting requirements, and shall meet both of the following additional requirements:

(i) Require the entity awarded the contract to comply with all federal and state privacy laws, including, but not limited to, the federal Health Insurance Portability and Accountability Act (HIPAA; 42 U.S.C. Sec. 1320d et seq.) and its implementing regulations, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and Section 1798.81.5 of the Civil Code. The entity shall be subject to existing penalties for violation of these laws.

(ii) Prohibit the entity awarded the contract from using, selling, or disclosing client records for a purpose other than the one for which the record was given.

(C) For purposes of this paragraph, the following terms shall have the following meanings:

(i) "Client record" means a medical record, chart, or similar file, as well as other documents containing information regarding an individual recipient of services, including, but not limited to, clinical information, dates and times of services, and other information relevant to the individual and services provided and that evidences compliance with legal requirements for Medi-Cal reimbursement.

(ii) "Client record review" means examination of the client record for a selected individual recipient for the purpose of confirming the existence of documents that verify compliance with legal requirements for claims submitted for Medi-Cal reimbursement.

(D) The department shall recover overpayments of federal financial participation from MHPs within the timeframes required by federal law and regulation and return those funds to the State Department of Health Care Services for repayment to the federal Centers for Medicare and Medicaid Services. The department shall recover overpayments of General Fund moneys utilizing the

recoupment methods and timeframes required by the State Administrative Manual.

(6) (A) The department, in consultation with mental health stakeholders, the California Mental Health Directors Association, and MHP subcontractor representatives, shall provide an appeals process that specifies a progressive process for resolution of disputes about claims or recoupments relating to specialty mental health services under the Medi-Cal specialty mental health services waiver.

(B) The department shall provide MHPs and MHP subcontractors the opportunity to directly appeal findings in accordance with procedures that are similar to those described in Article 1.5 (commencing with Section 51016) of Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations, until new regulations for a progressive appeals process are promulgated. When an MHP subcontractor initiates an appeal, it shall give notice to the MHP. The department shall propose a rulemaking package by no later than the end of the 2008–09 fiscal year to amend the existing appeals process. The reference in this subparagraph to the procedures described in Article 1.5 (commencing with Section 51016) of Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations, shall only apply to those appeals addressed in this subparagraph.

(C) The department shall develop regulations as necessary to implement this paragraph.

(7) The department shall assume the applicable program oversight authority formerly provided by the State Department of Health Care Services, including, but not limited to, the oversight of utilization controls as specified in Section 14133. The MHP shall include a requirement in any subcontracts that all inpatient subcontractors maintain necessary licensing and certification. MHPs shall require that services delivered by licensed staff are within their scope of practice. Nothing in this part shall prohibit the MHPs from establishing standards that are in addition to the minimum federal and state requirements, provided that these standards do not violate federal and state Medi-Cal requirements and guidelines.

(8) Subject to federal approval and consistent with state requirements, the MHP may negotiate rates with providers of mental health services.

(9) Under the fee-for-service payment system, any excess in the payment set forth in the contract over the expenditures for services by the plan shall be spent for the provision of specialty mental health services under the Medi-Cal specialty mental health service waiver and related administrative costs.

(10) Nothing in this part shall limit the MHP from being reimbursed appropriate federal financial participation for any qualified services even if the total expenditures for service exceeds the contract amount with the department. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement.

(c) This subdivision shall apply to managed mental health care funding allocations and risk-sharing determinations and arrangements.

(1) The department shall allocate and distribute annually the full appropriated amount to each MHP for the managed mental health care program, exclusive of the EPSDT specialty mental health services program, provided under the mental health services waiver. The allocated funds shall be considered to be funds of the plan to be used as specified in this part.

(2) Each fiscal year the state matching funds for Medi-Cal specialty mental health services shall be included in the annual budget for the department. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The appropriation for funding the state share of the costs for EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver shall only be used for reimbursement payments of claims for those services.

(3) Initially, the MHP shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Care Services for the processing of claims for inpatient psychiatric hospital services and may be required to use that fiscal intermediary for the remaining mental health services. The providers for other Short-Doyle Medi-Cal services shall not be initially required to use the fiscal intermediary but may be required to do so on a date to be determined by the department. The department and its MHPs shall be responsible for the initial incremental increased matching costs of the fiscal intermediary for claims processing and

information retrieval associated with the operation of the services funded by the transferred funds.

(4) The goal for funding of the future capitated system shall be to develop statewide rates for beneficiary, by aid category and with regional price differentiation, within a reasonable time period. The formula for distributing the state matching funds transferred to the department for acute inpatient psychiatric services to the participating counties shall be based on the following principles:

(A) Medi-Cal state General Fund matching dollars shall be distributed to counties based on historic Medi-Cal acute inpatient psychiatric costs for the county's beneficiaries and on the number of persons eligible for Medi-Cal in that county.

(B) All counties shall receive a baseline based on historic and projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. For purposes of this subdivision, "small counties" means counties with ~~less~~ *a population of fewer* than 200,000 ~~population~~ *persons*. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss

of funds by the entity designated by the counties under this paragraph.

(5) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse MHPs in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the MHP for risk reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda	3.5991
Alpine	.0050
Amador	.0490
Butte	.8724
Calaveras	.0683
Colusa	.0294
Contra Costa	1.5544
Del Norte	.1359
El Dorado	.2272
Fresno	2.5612
Glenn	.0597
Humboldt	.1987
Imperial	.6269
Inyo	.0802
Kern	2.6309
Kings	.4371
Lake	.2955
Lassen	.1236
Los Angeles	31.3239
Madera	.3882
Marin	1.0290

County	Percentage
Mariposa	.0501
Mendocino	.3038
Merced	.5077
Modoc	.0176
Mono	.0096
Monterey	.7351
Napa	.2909
Nevada	.1489
Orange	8.0627
Placer	.2366
Plumas	.0491
Riverside	4.4955
Sacramento	3.3506
San Benito	.1171
San Bernardino	6.4790
San Diego	12.3128
San Francisco	3.5473
San Joaquin	1.4813
San Luis Obispo	.2660
San Mateo	.0000
Santa Barbara	.0000
Santa Clara	1.9284
Santa Cruz	1.7571
Shasta	.3997
Sierra	.0105
Siskiyou	.1695
Solano	.0000
Sonoma	.5766
Stanislaus	1.7855
Sutter/Yuba	.7980
Tehama	.1842
Trinity	.0271
Tulare	2.1314
Tuolumne	.2646
Ventura	.8058
Yolo	.4043

(6) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other specialty

mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(7) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements. The share of cost ratio arrangement for EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver between the state and the counties in existence during the 2007–08 fiscal year shall remain as the share of cost ratio arrangement for these services unless changed by statute.

(8) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(9) (A) For the managed mental health care program, exclusive of EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver, the department shall establish, by regulation, a risk-sharing arrangement between the department and counties that contract with the department as MHPs to provide an increase in the state General Fund allocation, subject to the availability of funds, to the MHP under this section, where there is a change in the obligations of the MHP required by federal or state law or regulation, or required by a change in the interpretation or implementation of any such law or regulation which significantly increases the cost to the MHP of performing under the terms of its contract.

(B) During the time period required to redetermine the allocation, payment to the MHP of the allocation in effect at the time the change occurred shall be considered an interim payment, and shall be subject to increase effective as of the date on which the change is effective.

(C) In order to be eligible to participate in the risk-sharing arrangement, the county shall demonstrate, to the satisfaction of the department, its commitment or plan of commitment of all

annual funding identified in the total mental health resource base, from whatever source, but not including county funds beyond the required maintenance of effort, to be spent on specialty mental health services. This determination of eligibility shall be made annually. The department may limit the participation in a risk-sharing arrangement of any county that transfers funds from the mental health account to the social services account or the health services account, in accordance with Section 17600.20 during the year to which the transfers apply to MHP expenditures for the new obligation that exceed the total mental health resource base, as measured before the transfer of funds out of the mental health account and not including county funds beyond the required maintenance of effort. The State Department of Mental Health shall participate in a risk-sharing arrangement only after a county has expended its total annual mental health resource base.

(d) The following provisions govern the administrative responsibilities of the department and the State Department of Health Care Services:

(1) It is the intent of the Legislature that the department and the State Department of Health Care Services consult and collaborate closely regarding administrative functions related to and supporting the managed mental health care program in general, and the delivery and provision of EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver~~,~~ in particular. To this end, the following provisions shall apply:

(A) Commencing in the 2009–10 fiscal year, and each fiscal year thereafter, the department shall consult with the State Department of Health Care Services and amend the interagency agreement between the two departments as necessary to include improvements or updates to procedures for the accurate and timely processing of Medi-Cal claims for specialty mental health services provided under the Medi-Cal specialty mental health services waiver. The interagency agreement shall ensure that there are consistent and adequate time limits, consistent with federal and state law, for claims submitted and the need to correct errors.

(B) Commencing in the 2009–10 fiscal year, and each fiscal year thereafter, upon a determination by the department and the State Department of Health Care Services that it is necessary to amend the interagency agreement, the department and the State

Department of Health Care Services shall process the interagency agreement to ensure final approval by January 1, for the following fiscal year, and as adjusted by the budgetary process.

(C) The interagency agreement shall include, at a minimum, all of the following:

(i) A process for ensuring the completeness, validity, and timely processing of Medi-Cal claims as mandated by the federal Centers for Medicare and Medicaid Services.

(ii) Procedures and timeframes by which the department shall submit complete, valid, and timely invoices to the State Department of Health Care Services, which shall notify the department of inconsistencies in invoices that may delay payments.

(iii) Procedures and timeframes by which the department shall notify MHPs of inconsistencies that may delay payment.

(2) (A) The department shall consult with the State Department of Health Care Services and the California Mental Health Directors Association in February and September of each year to review the methodology used to forecast future trends in the provision of EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver, to estimate these yearly EPSDT specialty mental health services related costs, and to estimate the annual amount of funding required for reimbursements for EPSDT specialty mental health services to ensure relevant factors are incorporated in the methodology. The estimates of costs and reimbursements shall include both federal financial participation amounts and any state General Fund amounts for EPSDT specialty mental health services provided under the State Medi-Cal specialty mental health services waiver. The department shall provide the State Department of Health Care Services the estimate adjusted to a cash basis.

(B) The estimate of annual funding described in subparagraph (A) shall~~,~~ include, but not be limited to, the following factors:

(i) The impacts of interactions among caseload, type of services, amount or number of services provided, and billing unit cost of services provided.

(ii) A systematic review of federal and state policies, trends over time, and other causes of change.

(C) The forecasting and estimates performed under this paragraph are primarily for the purpose of providing the Legislature and the Department of Finance with projections that are as accurate

as possible for the state budget process, but will also be informative and useful for other purposes. Therefore, it is the intent of the Legislature that the information produced under this paragraph shall be taken into consideration under paragraph ~~(10)~~ *(9)* of subdivision (c).

SEC. 322. Section 10850.4 of the Welfare and Institutions Code is amended to read:

10850.4. (a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

(1) The age and gender of the child.

(2) The date of death.

(3) Whether the child was in foster care or in the home of his or her parent or guardian at the time of death.

(4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

(1) A county child protective services agency determines that the abuse or neglect was substantiated.

(2) A law enforcement investigation concludes that abuse or neglect occurred.

(3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed

by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

(A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.

(B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.

(e) (1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph

(C) of paragraph (1) and setting forth standards governing redactions.

(B) Notwithstanding the rulemaking provisions of the Administrative ~~Procedures~~ *Procedure* Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Section 827 and this section at the 2007–08 Regular Session of the Legislature through ~~all county~~ *all-county* letters or similar instructions from the director. The department shall adopt as emergency regulations, as necessary to implement those changes, no later than January 1, 2009.

(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) Documents from the juvenile case file, other than those listed in paragraphs (2) and (3) of subdivision (c), shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.

(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information. The State Department of Social Services, after consultation with interested stakeholders, shall provide instructions by an ~~all county~~ *all-county* letter regarding the procedure for notification.

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

(1) "Child abuse or neglect" has the same meaning as defined in Section 11165.6 of the Penal Code.

(2) "Custodian of records," for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) "Juvenile case files" or "case files" include any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.

(4) "Substantiated" has the same meaning as defined in Section 11165.12 of the Penal Code.

(*l*) A person disclosing juvenile case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) Nothing in this section shall require a custodian of records to retain documents beyond any date otherwise required by law.

(o) Nothing in this section shall be construed as requiring a custodian of records to obtain documents not in the case file.

SEC. 323. Section 11327.5 of the Welfare and Institutions Code, as added by Section 3 of Chapter 8 of the 4th Extraordinary Session of the Statutes of 2009, is amended to read:

11327.5. (a) Sanctions shall be imposed in accordance with subdivision (b) or (c), as appropriate, if an individual has failed or refused to comply with program requirements without good cause and conciliation efforts, as described in Section 11327.4, have failed.

(b) The sanctions provided for in subdivisions (c) and (d) shall not apply to an individual who is exempt from the requirements of this article but is voluntarily participating in the program. If that individual engages in conduct that would bring about the actions provided for in subdivisions (c) and (d), except for his or her status as a voluntary program participant, the individual shall not be given priority so long as other individuals are actively seeking to participate.

(c) Financial sanctions for failing or refusing to comply with program requirements without good cause shall cause a reduction in the family's grant, in accordance with subdivision (d).

(1) For families that qualify for aid due to unemployment of the family's primary wage earner, the sanctioned parent shall be removed from the assistance unit. Unless the spouse or the family's second parent meets the provisions of subparagraph (A) of paragraph (2), if the sanctioned parent's spouse or the family's second parent is not participating in the program, both the sanctioned parent and the spouse or second parent shall be removed from the assistance unit. The county shall notify the spouse of the noncomplying participant or second parent in writing at the commencement of conciliation of his or her own opportunity to participate and the impact on sanctions of that participation.

(2) (A) Except as provided in subparagraph (B), exemption criteria specified in Section 11320.3, conciliation specified in Section 11327.4, and good cause criteria specified in Section 11320.31 and subdivision (f) of Section 11320.3 shall apply to the sanctioned parent's spouse or the family's second parent.

(B) Exemption criteria specified in paragraphs (5) and (6) of subdivision (b) of Section 11320.3 do not apply to a spouse or second parent who is participating to avoid the sanction of the noncomplying parent.

(C) If the sanctioned parent's spouse or the family's second parent chooses to participate to avoid the noncomplying parent's sanction, subsequently fails or refuses to participate without good cause, and does not conciliate, he or she shall be removed from

the assistance unit for a period of time specified in subdivision (d).

(D) If the sanctioned parent's spouse or the family's second parent is under his or her own sanction at the time of the first parent's sanction, the spouse or second parent shall not be provided the opportunity to avoid the first parent's sanction until the spouse or second parent's sanction is completed.

(3) For families that qualify due to the absence or incapacity of a parent, only the noncomplying parent shall be removed from the assistance unit.

(4) If the noncomplying individual is the only dependent child in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.

(5) If the noncomplying individual is one of several dependent children in the family, his or her needs shall not be taken into account in determining the family's need for assistance and the amount of the assistance payment.

(d) (1) An instance of noncompliance without good cause shall result in a financial sanction, consisting of removing the noncomplying family member from the assistance unit, after the noncompliance persists for three cumulative months. The conciliation process described in Section 11327.4 shall occur during the first 30 days of this three-month period. A sanction under this section shall terminate at any point if the noncomplying participant performs the activity or activities he or she previously refused to perform.

(2) (A) If the instance of noncompliance persists for three cumulative months, the county shall review and assess the circumstances of the noncomplying individual in order to determine and identify potential barriers to participation, assess the need for services or resources, and provide tools to connect the individual with services and activities. The review and assessment shall be conducted by a social worker or employment services worker. The county shall make a good faith effort to remediate any barriers that are identified. If barriers relating to substance abuse, mental health, or domestic violence are suspected, the county shall schedule assessments with an employment specialist or social worker for the individual in order to assess and review for treatment. This

review shall occur within 30 days after the grant reduction made pursuant to paragraph (1).

(B) If the county fails to conduct a review or remediate any issues pursuant to this paragraph, or if the county determines that the individual is in compliance pursuant to paragraph (1), or is exempt from welfare-to-work requirements, the sanction shall terminate. If failure to conduct a review or remediate an issue is the result of the recipient's noncompliance, the sanction shall continue.

(3) (A) If the instance of noncompliance persists for an additional three cumulative months after a grant reduction is made pursuant to paragraph (1), the grant shall be decreased by an amount equal to 25 percent of the child-only grant, which already reflects the removal of the parent.

(B) If the instance of noncompliance persists for an additional three cumulative months after the family's grant is reduced under subparagraph (A), a second review and assessment shall be conducted in accordance with the requirements of paragraph (2). The second review and assessment shall be conducted within 30 days of the most recent grant reduction pursuant to subparagraph (A). After the review and assessment conducted under this paragraph, if the instance of noncompliance persists for an additional three cumulative months after the most recent reduction, the family's aid grant shall be decreased by an amount equal to 50 percent of the child-only grant level that existed prior to the 25-percent reduction.

(C) At any time, if the noncomplying member is determined to be exempt, or comes into compliance with applicable CalWORKs work requirements, the sanction shall terminate and the full aid grant amount shall be restored.

(4) (A) With respect to an assistance unit from which the adult's share of the grant has been terminated due to the expiration of the 60-month period provided for pursuant to Section 11454, the county shall impose the sanctions provided for in this section only if the county makes available to the adult necessary child care services, and all applicable exemptions. If the Legislature has made a specific appropriation for transportation services for families who have exceeded the 60-month time limit and the county has not made this service available to the adult, as necessary, a sanction shall not be imposed. These cases shall receive a review pursuant

to subdivision ~~(g)~~ *(h)* of Section 11320.2 at the 42nd or 54th month of aid in preparation for this assessment by the county, including reviewing possible exemptions and discussing possible grant reductions if the family is not in compliance after the 60 months with the state participation requirements, as determined by the county. The individual shall receive notice of the review, which shall include informing the individual of the risk of having the grant further reduced by 25 percent if the parent does not comply with CalWORKs requirements after the 48th or 60th month on aid, as well as opportunities to come into compliance and services that may be available from the county.

(B) If the county determines after the 48th or 60th month on aid that the adult is not in compliance and does not otherwise meet exemption criteria, such as SSI eligibility or being an elderly caregiver, and the service requirements of the county as specified in subparagraph (A) have been met, then the aid grant shall be decreased by an amount equal to 25 percent of the child-only portion of the grant, thus resulting in a grant level equal to 75 percent of the child-only grant level in the 47th or 59th month, or the month prior to entering the safety net. Review and assessment pursuant to paragraph (2) shall be scheduled with the adult in this assistance unit at this time.

(C) If the noncompliance persists for three cumulative months after the grant reduction pursuant to subparagraph (B), the review and assessment conducted pursuant to paragraph (2), and the county has met the service requirements specified in subparagraph (A), then the aid grant shall be decreased by an amount equal to 50 percent of the child-only aid grant thus resulting in a grant level equal to 50 percent of the child-only grant level in the 47th or 59th month, or the month prior to entering the safety net.

(D) At any time, if the noncomplying member is determined to be exempt from welfare-to-work activities, or comes into compliance with applicable CalWORKs work requirements, the sanction shall terminate and the full aid grant amount shall be restored.

(5) (A) After 60 full months of aid, with respect to an assistance unit for which there is no adult share due to the adult being (i) not lawfully present in the United States, (ii) a person described by Section 608(a)(9)(A) of Title 42 of the United States Code, or (iii) convicted of any offense classified as a felony by the law of the

jurisdiction involved and that has as an element of the possession, use, or distribution of a controlled substance, as defined in Section 802(6) of Title 21 of the United States Code, the county shall apply the sanction provisions contained in subparagraph (B) to the assistance unit allowing for all applicable exemptions. If the county makes available to the adult, at county expense or pursuant to a specific General Fund appropriation, necessary supportive services of child care and transportation, in addition to community service opportunities, and the family is in compliance with work requirements the family shall receive the full child-only grant. These cases shall receive a self-sufficiency review pursuant to subdivision ~~(g)~~ *(h)* of Section 11320.2 at the 54th month of aid, in preparation for this assessment by the county, including reviewing possible exemptions, and discussing possible grant reductions if the family is not in compliance with the state participation requirements after 60 months, as determined by the county.

(B) If the county determines after the 60 months of aid that the adult does not otherwise meet exemption criteria, including those that acknowledge the adult's inability to work, such as SSI eligibility or being an elderly caregiver, and the service requirements of the county as specified in subparagraph (A) have been met, then the aid grant shall be decreased by an amount equal to 25 percent of the child-only portion of the grant amount, thus resulting in a grant level equal to 75 percent of the child-only grant level in the 59th month or the month prior to entering the safety net. Review and assessment pursuant to paragraph (2) shall be scheduled with the adult in this assistance unit at this time.

(C) If the noncompliance persists for three cumulative months after the review and assessment conducted pursuant to paragraph (2), and the service requirements of the county as specified in subparagraph (A) have been met, the family's aid grant shall be decreased to an amount equal to 50 percent of the child-only portion of the grant amount, thus resulting in a grant level equal to 50 percent of the child-only grant level in the 59th month prior to entering the safety net.

(D) At any time, if the noncomplying member is determined to be exempt from welfare-to-work activities, or comes into compliance with applicable CalWORKs work requirements, the sanction shall terminate and the full aid grant amount shall be restored.

(e) Sanctions shall become effective on the first day of the first payment-month that the sanctioned individual's needs are removed or further reductions are made to aid under this chapter.

(f) The additional monetary sanctions imposed in subdivision (d) shall not apply if the only sanctioned individual in the family is a dependent child.

(g) The county shall send individuals subject to sanction a notice by the end of their second cumulative month on sanction, and a notice by the end of their fifth cumulative month on sanction, reminding them that their aid will further decrease if the sanction is not cured by the end of the third or sixth month, respectively.

(h) In addition to the notice required pursuant to subdivision (d), counties shall attempt to contact the noncompliant individual prior to imposing a sanction reducing the family's aid. This contact may be achieved through telephone calls, letters, home visits, or some combination of these methods.

(i) The review and assessment described in paragraph (2) of subdivision (d) shall be deemed to satisfy the requirements for a self-sufficiency review pursuant to Section 11320.2 if the review and assessment occurs within the same month that a self-sufficiency review under Section 11320.2 would have been scheduled. If failure to conduct the review or assessment is the result of the recipient's noncompliance, the sanction or further reduction shall become effective under this chapter.

(j) Any review or assessment required under this section may be conducted through face-to-face meetings or home visits.

(k) This section shall become operative on July 1, 2011.

SEC. 324. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), the amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living. These adjustments shall become effective July 1 of each year, unless otherwise specified by the Legislature. For the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, these adjustments shall become effective October 1 of each year. The cost-of-living adjustment shall be calculated by the Department of Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and

transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in ~~subdivision (a)~~ *paragraph (1)* within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in ~~subdivision (a)~~ *paragraph (1)* using the applicable weighting factors for each area used by the ~~State~~ Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in ~~subdivision (a)~~ *paragraph (1)* by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in ~~subdivision (d)~~*paragraph (4)* for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, to reflect any change in the cost of living. For the 1998–99 fiscal year, the ~~cost of living~~ *cost-of-living* adjustment that would have been provided on July 1, 1998, pursuant to subdivision (a) shall be made on November 1, 1998. No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 2005–06 and 2006–07 fiscal years to reflect any change in the ~~cost-of-living~~ *cost of living*. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(3) In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is any increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then the increase pursuant to subdivision (a) of this section shall occur. In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is no increase in tax relief pursuant to the applicable paragraph of subdivision (a) of

Section 10754 of the Revenue and Taxation Code, then any increase pursuant to subdivision (a) of this section shall be suspended.

(4) Notwithstanding paragraph (3), an adjustment to the maximum aid payments set forth in subdivision (a) of Section 11450 shall be made under this section for the 2002–03 fiscal year, but the adjustment shall become effective June 1, 2003.

(5) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing benefits under this chapter for the 2007–08, 2008–09, and 2009–10 fiscal years.

(6) For the 2010–11 fiscal year and each fiscal year thereafter, no adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section unless otherwise specified by statute.

(d) For the 2004–05 fiscal year, the adjustment to the maximum aid payment set forth in subdivision (a) shall be suspended for three months commencing on the first day of the first month following the effective date of the act adding this subdivision.

(e) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the ~~cost of living~~ *cost-of-living adjustment* was suspended pursuant to subdivision (c).

SEC. 325. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. Except as provided in subdivision (e), (f), or (g), these adjustments shall become effective January 1 of each year. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends 12 months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in ~~subdivision (a)~~ *paragraph (1)* using the applicable weighting factors for each area used by the ~~State~~ Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the

month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to ~~insure~~ *ensure* that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2004, 2006, 2007, 2008, 2009, and 2010 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the ~~cost of living~~ *cost-of-living adjustment* was suspended pursuant to paragraph (1).

(e) For the 2003 calendar year, the adjustment required by this section shall become effective June 1, 2003.

(f) For the 2005 calendar year, the adjustment required by this section shall become effective April 1, 2005.

(g) (1) For the 2011 calendar year and each calendar year thereafter, no adjustment shall be made under this section unless otherwise specified by statute.

(2) Notwithstanding paragraph (1), the pass along of federal benefits provided for in Section 12201.05 shall be effective on January 1 of each calendar year.

SEC. 326. Section 12301.06 of the Welfare and Institutions Code is amended to read:

12301.06. (a) (1) Notwithstanding any other provision of law, except as provided in subdivision (d), the department shall

implement a 3.6-percent reduction in hours of service to each recipient of services under this article, which shall be applied to the recipient's hours as authorized pursuant to the most recent assessment. This reduction shall be effective 90 days after the enactment of the act that adds this section. The reduction required by this section shall not preclude any reassessment to which a recipient would otherwise be entitled. However, hours authorized pursuant to a reassessment shall be subject to the 3.6-percent reduction required by this section.

(2) A recipient of services under this article may direct the manner in which the reduction of hours is applied to the recipient's previously authorized services.

(3) For those individuals who have a documented unmet need, excluding protective supervision because of the limitations on authorized hours under Section 12303.4, the reduction shall be taken first from the documented unmet need.

(b) (1) The reduction in hours of service pursuant to subdivision (a) shall cease to be implemented on July 1, 2012.

(2) It is the intent of the Legislature that on July 1, 2012, services shall be restored to the level authorized pursuant to the recipient's most recent assessment, and increased by the previously deducted 3.6 percent.

(c) The notice of action informing the recipient of the reduction pursuant to subdivision (a) shall be mailed at least 30 days prior to the reduction going into effect. The notice of action shall be understandable to the recipient and translated into all languages spoken by a substantial number of the public served by the In-Home Supportive Services program, in accordance with Section 7295.2 of the Government Code. The notice shall not contain any recipient financial or confidential identifying information other than the recipient's name, address, and Case Management Information and Payroll System (CMIPS) client identification number, and shall include, but not be limited to, all of the following information:

(1) The aggregate number of authorized hours before the reduction pursuant to subdivision (a) and the aggregate number of authorized hours after the reduction.

(2) That the recipient may direct the manner in which the reduction of authorized hours is applied to the recipient's previously authorized services.

(3) That the reduction of hours shall remain in effect until July 1, 2012, at which time service hours shall be restored to the recipient's authorized level, based on the most recent assessment, and increased by the previously deducted 3.6 percent.

(d) A recipient shall have all appeal rights otherwise provided for under Chapter 7 (commencing with Section 10950) of Part 2.

(e) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through all-county letters or similar instructions from the department.

(f) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, ~~this section~~ is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 327. Section 12305.87 of the Welfare and Institutions Code is amended to read:

12305.87. (a) (1) Commencing 90 days following the effective date of the act that adds this section, a person specified in paragraph (2) shall be subject to the criminal conviction exclusions provided for in this section, in addition to the exclusions required under Section 12305.81.

(2) This section shall apply to a person who satisfies either of the following conditions:

(A) He or she is a new applicant to provide services under this article.

(B) He or she is an applicant to provide services under this article whose application has been denied on the basis of a conviction and for whom an appeal of that denial is pending.

(b) Subject to subdivisions (c), (d), and (e), an applicant subject to this section shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, any of the following:

(1) A violent or serious felony, as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code.

(2) A felony offense for which a person is required to register under subdivision (c) of Section 290 of the Penal Code. For

purposes of this subparagraph, the 10-year time period specified in this section shall commence with the date of conviction for, or incarceration following a conviction for, the underlying offense, and not the date of registration.

(3) A felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of Section 10980.

(c) Notwithstanding subdivision (b), an application shall not be denied under this section if the applicant has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or the information or accusation against him or her has been dismissed pursuant to Section 1203.4 of the Penal Code.

(d) (1) Notwithstanding subdivision (b), a recipient of services under this article who wishes to employ a provider applicant who has been convicted of an offense specified in subdivision (b) may submit to the county an individual waiver of the exclusion provided for in this section. This paragraph shall not be construed to allow a recipient to submit an individual waiver with respect to a conviction or convictions for offenses specified in Section 12305.81.

(2) The county shall notify a recipient who wishes to hire a person who is applying to be a provider and who has been convicted of an offense subject to exclusion under this section of that applicant's relevant criminal offense convictions that are covered by subdivision (b). The notice shall include both of the following:

(A) A summary explanation of the exclusions created by subdivision (b), as well as the applicable waiver process described in this subdivision and the process for an applicant to seek a general exception, as described in subdivision (e). This summary explanation shall be developed by the department for use by all counties.

(B) An individual waiver form, which shall also be developed by the department and used by all counties. The waiver form shall include both of the following:

(i) A space for the county to include a reference to any Penal Code sections and corresponding offense names or descriptions that describe the relevant conviction or convictions that are covered by subdivision (b) and that the provider applicant has in his or her background.

(ii) A statement that the service recipient, or his or her authorized representative, if applicable, is aware of the applicant's conviction or convictions and agrees to waive application of this section and employ the applicant as a provider of services under this article.

(3) To ensure that the initial summary explanation referenced in this subdivision is comprehensible for recipients and provider applicants, the department shall consult with representatives of county welfare departments and advocates for, or representatives of, recipients and providers in developing the summary explanation and offense descriptions.

(4) The individual waiver form shall be signed by the recipient, or by the recipient's authorized representative, if applicable, and returned to the county welfare department by mail or in person. The county shall retain the waiver form and a copy of the provider applicant's criminal offense record information search response until the date that the convictions that are the subject of the waiver request are no longer within the 10-year period specified in subdivision (b).

(5) An individual waiver submitted pursuant to this subdivision shall entitle a recipient to hire a provider applicant who otherwise meets all applicable enrollment requirements for the In-Home Supportive Services program. A provider hired pursuant to an individual waiver may be employed only by the recipient who requested that waiver, and the waiver shall only be valid with respect to convictions that are specified in that waiver. A new waiver shall be required if the provider is subsequently convicted of an offense to which this section otherwise would apply. A provider who wishes to be listed on a provider registry or to provide supportive services to a recipient who has not requested an individual waiver shall be required to apply for a general exception, as provided for in subdivision (e).

(6) Nothing in this section shall preclude a provider who is eligible to receive payment for services provided pursuant to an individual waiver under this subdivision from being eligible to receive payment for services provided to one or more additional recipients who obtain waivers pursuant to this ~~same~~ subdivision.

(7) The state and a county shall be immune from any liability resulting from granting an individual waiver under this subdivision.

(e) (1) Notwithstanding subdivision (b), an applicant who has been convicted of an offense identified in subdivision (b) may seek

from the department a general exception to the exclusion provided for in this section.

(2) Upon receipt of a general exception request, the department shall request a copy of the applicant's criminal offender record information search response from the applicable county welfare department. Notwithstanding any other provision of law, the county shall provide a copy of the criminal offender record information search response, as provided to the county by the Department of Justice, to the department. The county shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response. The state or federal criminal history record information search response shall not be modified or altered from its form or content as provided by the Department of Justice.

(3) The department shall consider the following factors when determining whether to grant a general exception under this subdivision:

(A) The nature and seriousness of the conduct or crime under consideration and its relationship to employment duties and responsibilities.

(B) The person's activities since conviction, including, but not limited to, employment or participation in therapy, education, or community service, that would indicate changed behavior.

(C) The number of convictions and the time that has elapsed since the conviction or convictions.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any evidence of rehabilitation, including character references, submitted by the person, or by others on the person's behalf.

(F) Employment history and current or former employer recommendations. Additional consideration shall be given to employer recommendations provided by a person who has received or has indicated a desire to receive supportive or personal care services from the applicant, including, but not limited to, those services, specified in Section 12300.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

(f) If the department makes a determination to deny an application to provide services pursuant to a request for a general exception, the department shall notify the applicant of this determination by either personal service or registered mail. The notice shall include the following information:

(1) A statement of the department's reasons for the denial that evaluates evidence of rehabilitation submitted by the applicant, if any, and that specifically addresses any evidence submitted relating to the factors in paragraph (3) of subdivision (e).

(2) A copy of the applicant's criminal offender record information search response, even if the applicant already has received a copy pursuant to Section 12301.6 or 12305.86. The department shall provide this information in a manner that protects the confidentiality and privacy of the criminal offender record information search response.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The department shall retain a copy of each individual's criminal offender record information search response until the date that the convictions that are the subject of the exception are no longer within the 10-year period specified in subdivision (b), and shall record the date the copy of the response was provided to the individual and the department.

(C) The criminal offender record information search response shall not be made available by the department to any individual other than the provider applicant.

(g) (1) Upon written notification that the department has determined that a request for exception shall be denied, the applicant may request an administrative hearing by submitting a written request to the department within 15 business days of receipt of the written notification. Upon receipt of a written request, the department shall hold an administrative hearing consistent with the procedures specified in Section 100171 of the Health and Safety Code, except where those procedures are inconsistent with this section.

(2) A hearing under this subdivision shall be conducted by a hearing officer or administrative law judge designated by the

director. A written decision shall be sent by certified mail to the applicant.

(h) The department shall revise the provider enrollment form developed pursuant to Section 12305.81 to include both of the following:

(1) The text of subdivision (c) of Section 290 of the Penal Code, subdivision (c) of Section 667.5 of the Penal Code, subdivision (c) of Section 1192.7 of the Penal Code, and paragraph (2) of subdivisions (c) and (g) of Section 10980 *of this code*.

(2) A statement that the provider understands that if he or she has been convicted *of*, or incarcerated following conviction for, any of the crimes specified in the provisions identified in paragraph (b) in the last 10 years, and has not received a certificate of rehabilitation or had the information or accusation dismissed, as provided in subdivision (c), he or she shall only be authorized to receive payment for providing in-home supportive services under an individual waiver or general exception as described in this section, and upon meeting all other applicable criteria for enrollment as a provider in the program.

(i) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2011. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each

shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(j) In developing the individual waiver form and all-county letters or information notices or similar instructions, the department shall consult with stakeholders, including, but not limited to, representatives of the county welfare departments, and representatives of consumers and providers. The consultation shall include at least one in-person meeting prior to the finalization of the individual waiver form and all-county letters or information notices or similar instructions.

SEC. 328. Section 14043.1 of the Welfare and Institutions Code is amended to read:

14043.1. As used in this article:

(a) "Abuse" means either of the following:

(1) Practices that are inconsistent with sound fiscal or business practices and result in unnecessary cost to the federal Medicaid and Medicare programs, the Medi-Cal program, another state's Medicaid program, or other health care programs operated, or financed in whole or in part, by the federal government or a state or local agency in this state or another state.

(2) Practices that are inconsistent with sound medical practices and result in reimbursement by the federal Medicaid and Medicare programs, the Medi-Cal program or other health care programs operated, or financed in whole or in part, by the federal government or a state or local agency in this state or another state, for services that are unnecessary or for substandard items or services that fail to meet professionally recognized standards for health care.

(b) "Applicant" means an individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that apply to the department for enrollment as a provider in the Medi-Cal program.

(c) "Application or application package" means a completed and signed application form, signed under penalty of perjury or notarized pursuant to Section 14043.25, a disclosure statement, a provider agreement, and all attachments or changes in the form, statement, or agreement.

(d) "Appropriate volume of business" means a volume that is consistent with the information provided in the application and any supplemental information provided by the applicant or

provider, and is of a quality and type that would reasonably be expected based upon the size and type of business operated by the applicant or provider.

(e) "Business address" means the location where an applicant or provider provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary. A post office box or commercial box is not a business address. The business address for the location of a vehicle or vessel owned and operated by an applicant or provider enrolled in the Medi-Cal program and used to provide services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary shall either be the business address location listed on the provider's application as the location where similar services, goods, supplies, or merchandise would be provided or the applicant's or provider's pay to address.

(f) "Convicted" means any of the following:

(1) A judgment of conviction has been entered against an individual or entity by a federal, state, or local court, regardless of whether there is a posttrial motion, an appeal pending, or the judgment of conviction or other record relating to the criminal conduct has been expunged or otherwise removed.

(2) A federal, state, or local court has made a finding of guilt against an individual or entity.

(3) A federal, state, or local court has accepted a plea of guilty or nolo contendere by an individual or entity.

(4) An individual or entity has entered into participation in a first offender, deferred adjudication, or other program or arrangement where judgment of conviction has been withheld.

(g) "Debt due and owing" means 60 days have passed since a notice or demand for repayment of an overpayment or another amount resulting from an audit or examination, for a penalty assessment, or for another amount due *to* the department was sent to the provider, regardless of whether the provider is an institutional provider or a noninstitutional provider and regardless of whether an appeal is pending.

(h) "Enrolled or enrollment in the Medi-Cal program" means authorized under any processes by the department or its agents or contractors to receive, directly or indirectly, reimbursement for the provision of services, goods, supplies, or merchandise to a Medi-Cal beneficiary.

(i) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(j) "Location" means a street, city, or rural route address or a site or place within a street, city, or rural route address, and the city, county, state, and nine-digit ZIP Code.

(k) "Not currently enrolled at the location for which the application is submitted" means either of the following:

(1) The provider is changing location and moving to a different location than that for which the provider was issued a provider number.

(2) The provider is adding a business address.

(*l*) (1) "Individual dentist practice" means a dentist licensed by the Dental Board of California enrolled or enrolling in Medi-Cal as an individual provider who is a sole proprietor of his or her practice or is a corporation owned solely by the individual dentist and the only dentist practitioner is the owner. An individual dentist practice may include nondentist allied dental health professionals employed and supervised by the dentist.

(2) "Individual physician practice" means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California enrolled or enrolling in Medi-Cal as an individual provider who is sole proprietor of his or her practice or is a corporation owned solely by the individual physician and the only physician practitioner is the owner. An individual physician practice may include nonphysician medical practitioners employed and supervised by the physician.

(m) "Preenrollment period" or "preenrollment" includes the period of time during which an application package for enrollment, continued enrollment, or for the addition of or change in a location is pending.

(n) "Professionally recognized standards of health care" means statewide or national standards of care, whether in writing or not, that professional peers of the individual or entity whose provision of care is an issue recognize as applying to those peers practicing or providing care within a state. When the United States Department of Health and Human Services has declared a treatment modality not to be safe and effective, practitioners that employ

that treatment modality shall be deemed not to meet professionally recognized standards of health care. This subdivision shall not be construed to mean that all other treatments meet professionally recognized standards of care.

(o) "Provider" means an individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents of a partnership, group association, corporation, institution, or entity, that provides services, goods, supplies, or merchandise, directly or indirectly, to a Medi-Cal beneficiary and that has been enrolled in the Medi-Cal program.

(p) "Unnecessary or substandard items or services" means those that are either of the following:

(1) Substantially in excess of the provider's usual charges or costs for the items or services.

(2) Furnished, or caused to be furnished, to patients, whether or not covered by Medicare, Medicaid, or any of the state health care programs to which the definitions of applicant and provider apply, and which are substantially in excess of the patient's needs, or of a quality that fails to meet professionally recognized standards of health care. The department's determination that the items or services furnished were excessive or of unacceptable quality shall be made on the basis of information, including sanction reports, from the following sources:

(A) The professional review organization for the area served by the individual or entity.

(B) State or local licensing or certification authorities.

(C) Fiscal agents or contractors or private insurance companies.

(D) State or local professional societies.

(E) Any other sources deemed appropriate by the department.

SEC. 329. Section 14132.275 of the Welfare and Institutions Code is amended to read:

14132.275. (a) The department shall seek federal approval to establish pilot projects described in this section pursuant to a Medicare or a Medicaid demonstration project or waiver, or a combination thereof. Under a Medicare demonstration, the department may operate the Medicare component of a pilot project as a delegated Medicare benefit administrator, and may enter into financing arrangements with the federal Centers for Medicare and

Medicaid Services to share in any Medicare program savings generated by the operation of any pilot project.

(b) After federal approval is obtained, the department shall establish pilot projects that enable dual eligibles to receive a continuum of services, and that maximize the coordination of benefits between the Medi-Cal and Medicare programs and access to the continuum of services needed. The purpose of the pilot projects is to develop effective health care models that integrate services authorized under the federal Medicaid Program (Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.)) and the federal Medicare Program (Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.)). These pilot projects may also include additional services as approved through a demonstration project or waiver, or a combination thereof.

(c) Not sooner than March 1, 2011, the department shall identify health care models that may be included in a pilot project, shall develop a timeline and process for selecting, financing, monitoring, and evaluating these pilot projects, and shall provide this timeline and process to the appropriate fiscal and policy committees of the Legislature. The department may implement these pilot projects in phases.

(d) Goals for the pilot projects shall include all of the following:

(1) Coordinating Medi-Cal benefits, Medicare benefits, or both, across health care settings and improving continuity of acute care, long-term care, and home- and community-based services.

(2) Coordinating access to acute and long-term care services for dual eligibles.

(3) Maximizing the ability of dual eligibles to remain in their homes and communities with appropriate services and supports in lieu of institutional care.

(4) Increasing the availability of and access to home- and community-based alternatives.

(e) Pilot projects shall be established in up to four counties, and shall include at least one county that provides Medi-Cal services via a two-plan model pursuant to Article 2.7 (commencing with Section 14087.3) and at least one county that provides Medi-Cal services under a county organized health system pursuant to Article 2.8 (commencing with Section 14087.5). In determining the counties in which to establish a pilot project, the director shall consider the following:

(1) Local support for integrating medical care, long-term care, and home- and community-based services networks.

(2) A local stakeholder process that includes health plans, providers, community programs, consumers, and other interested stakeholders in the development, implementation, and continued operation of the pilot project.

(f) The director may enter into exclusive or nonexclusive contracts on a bid or negotiated basis and may amend existing managed care contracts to provide or arrange for services provided under this section. Contracts entered into or amended pursuant to this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of *Title 2 of* the Government Code.

(g) Services under Section 14132.95~~,~~ *or* 14132.952, or Article 7 (commencing with Section 12300) of Chapter 3, that are provided under the pilot projects established by this section shall be provided through direct hiring of personnel, contract, or establishment of a public authority or nonprofit consortium, in accordance with, and subject to, ~~the requirements of~~ Section 12302 or 12301.6, as applicable.

(h) Notwithstanding any other provision of state law, the department may require that dual eligibles be assigned as mandatory enrollees into managed care plans established or expanded as part of a pilot project established under this section. Mandatory enrollment in managed care for dual eligibles shall be applicable to the beneficiary's Medi-Cal benefits only. Dual eligibles shall have the option to enroll in a Medicare Advantage special needs plan (SNP) offered by the managed care plan established or expanded as part of a pilot project established pursuant to *subdivision* (e). To the extent that mandatory enrollment is required, any requirement of the department and the health plans, and any requirement of continuity of care protections for enrollees, as specified in Section 14182, shall be applicable to this section. Dual eligibles shall have the option to forgo receiving Medicare benefits under a pilot project. Nothing in this section shall be interpreted to reduce benefits otherwise available under the Medi-Cal program or the Medicare Program.

(i) For purposes of this section, a "dual eligible" means an individual who is simultaneously eligible for full scope benefits under Medi-Cal and the federal Medicare Program.

(j) Persons meeting requirements for *the* Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14590), may select a PACE plan if one is available in that county.

(k) Notwithstanding Section 10231.5 of the Government Code, the department shall conduct an evaluation to assess outcomes and the experience of dual eligibles in these pilot projects and shall provide a report to the Legislature after the first full year of pilot operation, and annually thereafter. A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code. The department shall consult with stakeholders regarding the scope and structure of the evaluation.

(*l*) This section shall be implemented only if and to the extent that federal financial participation or funding is available to establish these pilot projects.

(m) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. Prior to issuing any letter or similar instrument authorized pursuant to this section, the department shall notify and consult with stakeholders, including advocates, providers, and beneficiaries. The department shall notify the appropriate policy and fiscal committees of the Legislature of its intent to issue instructions under this section at least five days in advance of the issuance.

SEC. 330. Section 14165.50 of the Welfare and Institutions Code is amended to read:

14165.50. (a) To facilitate the financial viability of a new private nonprofit hospital that will serve the population of South Los Angeles that was formerly served by the Los Angeles County Martin Luther King, Jr.-Harbor Hospital, Medi-Cal funding shall, at a minimum, be made available, as specified in this section, or

pursuant to mechanisms that provide equivalent funding under successor or modified Medi-Cal payment systems.

(b) (1) (A) Payment for Medi-Cal inpatient hospital services provided by the new hospital, including, but not limited to, supplemental payments, may be negotiated under the selective provider contracting program, as set forth in Article 2.6 (commencing with Section 14081). The negotiations for per diem payments shall include consideration of the new hospital's projected Medi-Cal costs for providing the services and level of Medi-Cal reimbursement thereof, exclusive of any supplemental payments, necessary for the financial viability of the new hospital, and all other factors allowable under Section 14083.

(B) Notwithstanding any other provision of law, Medi-Cal supplemental payment for debt service costs shall be made to the new hospital pursuant to Section 14085.5 with respect to capital projects located at the site of the new hospital that previously were determined eligible under Section 14085.5 based on the debt service costs incurred by the County of Los Angeles, and if applicable, the new hospital. Alternatively, the rate required to be paid to the new hospital pursuant to subparagraph (A) may be increased to take into account the amount of the supplemental payments for debt service during the time the payments would be due. Nothing in this subparagraph shall be construed to increase the department's obligations set forth in paragraph (2) of subdivision (g) of Section 14085.5.

(2) Notwithstanding any other provision of law, in the event the new hospital does not enter into a contract under the selective provider contracting program as described in paragraph (1), all of the following shall apply:

(A) Health facility planning area 935, or a successor health facility planning area, that includes the area in which the new hospital will operate, shall be opened to enable the cost-based reimbursement methodology for Medi-Cal inpatient hospital services set forth in the Medi-Cal state plan to apply with respect to services provided by the new hospital.

(B) The department shall seek federal approval, as necessary, to enable the new hospital to receive Medi-Cal supplemental payments in addition to the cost-based reimbursement provided for in subparagraph (A). The nonfederal share of the supplemental payments may be funded with public funds that are transferred to

the state from the County of Los Angeles, at the county's election, pursuant to Section 14164.

(C) (i) Any public funds transferred to the state as described in subparagraph (B) for supplemental payments to the new hospital with respect to a fiscal period shall be expended solely for the nonfederal share of the supplemental payments, except for an amount that may be retained by the state for the benefit of the Medi-Cal program negotiated between the department and the County of Los Angeles, limited as follows:

(I) For each fiscal year before the 2017–18 fiscal year, the retained amount shall not be more than the amount of the nonfederal share of the reimbursement, exclusive of any supplemental payments, for the fiscal year to be paid pursuant to the cost-based reimbursement methodology described in subparagraph (A) that exceeds 77 percent of the new hospital's projected Medi-Cal costs.

(II) For the 2017–18 fiscal year and each subsequent fiscal year, the retained amount shall not be more than the amount of the nonfederal share of the reimbursement, exclusive of any supplemental payments, for the fiscal year to be paid pursuant to the cost-based reimbursement methodology described in subparagraph (A) that exceeds 72 percent of the new hospital's projected Medi-Cal costs.

(ii) For purposes of this subparagraph, the new hospital's projected Medi-Cal costs shall be based on the cost finding principles applied under subdivision (b) of Section 14166.4, and are not subject to the reimbursement limitations set forth in Article 7.5 (commencing with Section 51536) of Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations. The new hospital's projected Medi-Cal costs may take into account audit adjustments to allowable costs for prior periods.

(D) Reimbursement under this paragraph shall be available to the new hospital only if the necessary federal approval described in subparagraph (B) is obtained. If the necessary federal approval is not obtained, the new hospital shall be reimbursed for Medi-Cal inpatient hospital services as set forth in paragraph (1) and the per diem payments shall reimburse the hospital at no less than 72 percent of the hospital's projected Medi-Cal costs for providing the services, exclusive of any supplemental payments and the payments described in subparagraph (B) of paragraph (1).

(3) Notwithstanding any other provision of law, and only to the extent federal approval is obtained, the new hospital shall be reimbursed for Medi-Cal outpatient services under the cost-based reimbursement methodology established in Section 14105.24. The department shall seek federal approval, as necessary, to expand the methodology to include outpatient services provided to Medi-Cal beneficiaries by the new hospital.

(c) Nothing in this section shall be construed to preclude the new hospital from receiving any other payment for which it is eligible in addition to the payments provided for by this section.

(d) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of ~~all facility~~ *all-facility* letters, ~~all county~~ *all-county* letters, or similar instructions, without taking further regulatory action. Nothing in this section shall be construed to preclude the department from adopting regulations.

(e) (1) Except as otherwise provided herein, this section shall be implemented only if, and to the extent that, federal financial participation is available and this section does not jeopardize the federal financial participation available for any other state program.

(2) This section shall be implemented only if, and to the extent that, necessary approval from the federal Centers for Medicare and Medicaid Services is obtained.

(f) For purposes of this article, "new hospital" means a health facility that is certified under Title XVIII and Title XIX of the federal Social Security Act, and is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility, with an inpatient hospital service location on the campus of the former Los Angeles County Martin Luther King, Jr.-Harbor Hospital.

SEC. 331. Section 14166.20 of the Welfare and Institutions Code is amended to read:

14166.20. (a) With respect to each project year, the total amount of stabilization funding shall be the sum of the following:

(1) (A) Federal Medicaid funds available in the Health Care Support Fund, established pursuant to Section 14166.21, reduced by the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project

years after the 2005–06 project year for each designated public hospital, project year private DSH hospitals in the aggregate, and nondesignated public hospitals in the aggregate as determined in Sections 14166.5, 14166.13, and 14166.18, respectively, taking into account all other payments to each hospital under this article. This amount shall be not less than zero.

(B) For purposes of subparagraph (A), federal Medicaid funds available in the Health Care Support Fund shall not include health care coverage initiative amounts identified under paragraph (2) of subdivision (e) of Section 14166.9.

(C) The federal financial participation amount arising from the certified public expenditures that has been paid to designated public hospitals, or the governmental entities with which they are affiliated, pursuant to subdivision (g) of Section 14166.221, shall be disregarded for purposes of this section.

(2) The state general funds that were made available due to the receipt of federal funding for previously state-funded programs through the safety net care pool and any federal Medicaid hospital reimbursements resulting from these expenditures, unless otherwise recognized under paragraph (1), to the extent those funds are in excess of the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, for project year private DSH hospitals in the aggregate, and for nondesignated public hospitals in the aggregate, as determined in Sections 14166.5, 14166.13, and 14166.18, respectively.

(3) To the extent not included in paragraph (1) or (2), the amount of the increase in state General Fund expenditures for Medi-Cal inpatient hospital services for the project year for project year private DSH hospitals and nondesignated public hospitals, including amounts expended in accordance with paragraph (1) of subdivision (c) of Section 14166.23, that exceeds the expenditure amount for the same purpose and the same hospitals necessary to provide the aggregate baseline funding amounts applicable to the project determined pursuant to Sections 14166.13 and 14166.18, and any direct grants to designated public hospitals for services under the demonstration project.

(4) To the extent not included in paragraph (2), federal Medicaid funds received by the state as a result of the General Fund expenditures described in paragraph (3).

(5) The federal Medicaid funds received by the state as a result of federal financial participation with respect to Medi-Cal payments for inpatient hospital services made to project year private DSH hospitals and to nondesignated public hospitals for services rendered during the project year, the state share of which was derived from intergovernmental transfers or certified public expenditures of any public entity that does not own or operate a public hospital.

(6) Federal safety net care pool funds claimed and received for inpatient hospital services rendered under the health care coverage initiative identified under paragraph (3) of subdivision (e) of Section 14166.9.

(b) With respect to the 2005–06, 2006–07, and subsequent project years, the stabilization funding determined under subdivision (a) shall be allocated as follows:

(1) Eight million dollars ($8,000,000) shall be paid to San Mateo Medical Center. All or a portion of this amount may be paid as disproportionate share hospital payments in addition to the hospital's allocation that would otherwise be determined under Section 14166.6. The amount provided for in this paragraph shall be disregarded in the application of the limitations described in paragraph (3) of subdivision (a) of Section 14166.6, and in paragraph (1) of subdivision (a) of Section 14166.7.

(2) (A) Ninety-six million two hundred twenty-eight thousand dollars ($96,228,000) shall be allocated to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty-two million two hundred twenty-eight thousand dollars ($42,228,000) shall be allocated to private DSH hospitals to be paid in accordance with Section 14166.14.

(C) Five hundred forty-four thousand dollars ($544,000) shall be allocated to nondesignated public hospitals to be paid in accordance with Section 14166.17.

(D) In the event that stabilization funding is less than one hundred forty-seven million dollars ($147,000,000), the amounts allocated to designated public hospitals, private DSH hospitals, and nondesignated public hospitals under this paragraph shall be reduced proportionately.

(3) (A) An amount equal to the lesser of 10 percent of the total amount determined under subdivision (a) or twenty-three million five hundred thousand dollars ($23,500,000), but at least fifteen million three hundred thousand dollars ($15,300,000), shall be made available for additional payments to distressed hospitals that participate in the selective provider contracting program under Article 2.6 (commencing with Section 14081), including designated public hospitals, in amounts to be determined by the California Medical Assistance Commission. The additional payments to designated public hospitals shall be negotiated by the California Medical Assistance Commission, but shall be paid by the department in the form of a direct grant rather than as Medi-Cal payments.

(B) Notwithstanding subparagraph (A) and solely for the 2006–07 fiscal year, if the amount that otherwise would be made available for additional payments to distressed hospitals under subparagraph (A) is equal to or greater than eighteen million three hundred thousand dollars ($18,300,000), that amount shall be reduced by eighteen million three hundred thousand dollars ($18,300,000) and the state's obligation to make these payments shall be reduced by this amount. In the event the amount that otherwise would be made available under subparagraph (A) is less than eighteen million three hundred thousand dollars ($18,300,000), but greater than or equal to the minimum amount of fifteen million three hundred thousand dollars ($15,300,000), then the amount available under this paragraph shall be zero and the state's obligation to make these payments shall be zero.

(C) Notwithstanding subparagraph (A) and solely for the 2008–09 and 2009–10 fiscal years, the amount to be made available shall be reduced by fifteen million three hundred thousand dollars ($15,300,000) in each of the two years. The funds generated from this reduction shall be retained in the General Fund.

(4) An amount equal to 0.64 percent of the total amount determined under subdivision (a), to nondesignated public hospitals to be paid in accordance with Section 14166.19.

(5) The amount remaining after subtracting the amount determined in paragraphs (1) and (2), subparagraph (A) of paragraph (3), and paragraph (4), without taking into account subparagraphs (B) and (C) of paragraph (3), shall be allocated as follows:

(A) Sixty percent to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty percent to project year private DSH hospitals to be paid in accordance with Section 14166.14.

(c) By April 1 of the year following the project year for which the payment is made, and after taking into account final amounts otherwise paid or payable to hospitals under this article, the director shall calculate in accordance with subdivision (a), allocate in accordance with subdivision (b), and pay to hospitals in accordance with Sections 14166.75, 14166.14, and 14166.19, as applicable, the stabilization funding.

(d) For purposes of determining amounts paid or payable to hospitals under subdivision (c), the department shall apply the following:

(1) In determining amounts paid or payable to designated public hospitals that are based on allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, the following shall apply:

(A) If the final payment amount is based on the hospital's Medicare cost report, the department shall rely on the cost report filed with the Medicare fiscal intermediary for the project year for which the calculation is made, reduced by a percentage that represents the average percentage change from total reported costs to final costs for the three most recent cost reporting periods for which final determinations have been made, taking into account all administrative and judicial appeals. Protested amounts shall not be considered in determining the average percentage change unless the same or similar costs are included in the project year cost report.

(B) If the final payment amount is based on costs not included in subparagraph (A), the reported costs as of the date the determination is made under subdivision (c), shall be reduced by 10 percent.

(C) In addition to adjustments required in subparagraphs (A) and (B), the department shall adjust amounts paid or payable to designated public hospitals by any applicable deferrals or disallowances identified by the federal Centers for Medicare and Medicaid Services as of the date the determination is made under subdivision (c) not otherwise reflected in subparagraphs (A) and (B).

(2) Amounts paid or payable to project year private DSH hospitals and nondesignated public hospitals shall be determined by the most recently available Medi-Cal paid claims data increased by a percentage to reflect an estimate of amounts remaining unpaid.

(e) The department shall consult with hospital representatives regarding the appropriate calculation of stabilization funding before stabilization funds are paid to hospitals. The calculation may be comprised of multiple steps involving interim computations and assumptions as may be necessary to determine the total amount of stabilization funding under subdivision (a) and the allocations under subdivision (b). No later than 30 days after this consultation, the department shall establish a final determination of stabilization funding that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

(f) The department shall distribute 75 percent of the estimated stabilization funding on an interim basis throughout the project year.

(g) The allocation and payment of stabilization funding shall not reduce the amount otherwise paid or payable to a hospital under this article or any other provision of law, unless the reduction is required by the demonstration project's Special Terms and Conditions or by federal law.

(h) It is the intent of the Legislature that the amendments made to ~~Sections~~ *Section* 14166.12 and to this section by the act that added this subdivision in the 2007–08 Regular Session shall not be construed to amend or otherwise alter the ongoing structure of the department's Medicaid Demonstration Project and Waiver approved by the federal Centers for Medicare and Medicaid Services to begin on September 1, 2005.

SEC. 332. Section 14167.352 of the Welfare and Institutions Code is amended to read:

14167.352. (a) Notwithstanding any other provision of this article or Article 5.21 (commencing with Section 14167.1) requiring federal approvals, the department may impose and collect the quality assurance fee and may make payments under this article and Article 5.21 (commencing with Section 14167.1), including increased capitation payments, based upon receiving a letter from the federal Centers for Medicare and Medicaid Services or the United States Department of Health and Human Services that

indicates likely federal approval, but only if and to the extent that the letter is sufficient as set forth in subdivision (b).

(b) In order for the letter to be sufficient under this section, the director shall find that the letter meets all of the following requirements:

(1) The letter is in writing and signed by an official of the federal Centers for Medicare and Medicaid Services or an official of the United States Department of Health and Human Services.

(2) The director, after consultation with the hospital community, has determined, in the exercise of his or her sole discretion, that the letter provides a sufficient level of assurance to justify advanced implementation of the fee and payment provisions.

(c) Nothing in this section shall be construed as modifying the requirement under Section 14167.14 that payments shall be made only to the extent a sufficient amount of funds collected as the quality assurance fee are available to cover the nonfederal share of those payments.

(d) ~~(1)~~ Upon notice from the federal government that final federal approval for the fee model under this article or for any payment method under Article 5.21 (commencing with Section 14167.1) has been denied, any fees collected pursuant to this section shall be refunded and any payments made pursuant to this article or Article 5.21 (commencing with Section 14167.1) shall be recouped, including, but not limited to, supplemental payments, increased capitation payments, payments to hospitals by health care plans resulting from the increased capitation payments, grants, increased payments, and payments for the health care coverage of children. To the extent fees were paid by a hospital that also received payments under this section, the payments may first be recouped from fees that would otherwise be refunded to the hospital prior to the use of any other recoupment method allowed under law.

(e) Any payment made pursuant to this section shall be a conditional payment until all final federal approvals necessary to fully implement this article and Article 5.21 (commencing with Section 14167.1) have been received.

(f) The director shall have broad authority under this section to collect the quality assurance fee for an interim period pending receipt of all necessary federal approvals. This authority shall include discretion to determine both of the following:

(1) Whether the quality assurance fee should be collected on a full or pro rata basis during the interim period.

(2) The dates on which payments of the quality assurance fee are due.

(g) The department may draw against the Hospital Quality Assurance Revenue Fund for all administrative costs associated with implementation under this article or Article 5.21 (commencing with Section 14167.1).

(h) This section shall be implemented only to the extent federal financial participation is not jeopardized by implementation prior to the receipt of all necessary final federal approvals.

SEC. 333. Section 14167.354 of the Welfare and Institutions Code is amended to read:

14167.354. (a) (1) Upon receipt of a letter that indicates likely federal approval that the director determines is sufficient for implementation under Section 14167.352, or upon the receipt of all final federal approvals necessary for the implementation of this article and Article 5.21 (commencing with Section 14167.1), the following shall occur:

(A) To the maximum extent possible, and consistent with the availability of funds in the Hospital Quality Assurance Revenue Fund, the department shall make all of the payments under Sections 14167.2, 14167.3, 14167.4, 14167.6, and 14167.11, and subdivision (d) of Section 14167.5, including, but not limited to, supplemental payments and increased capitation payments, prior to January 1, 2011.

(B) The department shall make supplemental payments to hospitals under Article 5.21 (commencing with Section 14167.1) consistent with the timeframe described in Section 14167.9 or a modified timeline developed pursuant to Section 14167.353.

(2) (A) In determining the amount available for the nonfederal share of payments in a particular payment cycle, the department shall deduct no more than the following amounts to account for the priority payments to the state under paragraph (2) of subdivision (c) of Section 14167.35:

(i) Eighty million dollars ($80,000,000) for children's health coverage for each subject fiscal quarter for which some or all supplemental payments to hospitals have already been made.

(ii) Eighty million dollars ($80,000,000) for children's health coverage for each subject fiscal quarter for which supplemental

payments are being calculated to be paid to hospitals, subject to the availability of funding, in the current payment cycle.

(B) Notwithstanding any other provision of law, in determining the amount available for the nonfederal share of payments in a payment cycle described in subparagraph (A), the department shall not consider any payments for children's health care coverage previously made under paragraph (2) of subdivision (c) of Section 14167.35.

(3) (A) In determining the amount available in a particular payment cycle, the department shall deduct no more than the following amounts whether made directly to the designated public hospitals or retained by the state:

(i) Seventy-three million seven hundred fifty thousand dollars ($73,750,000) for each subject fiscal quarter for which some or all supplemental payments to hospitals have already been made.

(ii) Seventy-three million seven hundred fifty thousand dollars ($73,750,000) for each subject fiscal quarter for which supplemental payments are being calculated to be paid to hospitals, subject to the availability of funding, in the current payment cycle.

(B) Notwithstanding any other provision of law, in determining the amount available for a payment cycle described in subparagraph (A), the department shall not consider any payments of direct grants previously made to the designated public hospitals or transferred to the state from the *Hospital* Quality Assurance Revenue Fund under Section 14167.5 to account for the direct grants described in Section 14167.5.

(b) Notwithstanding any other provision of this article or Article 5.21 (commencing with Section 14167.1), if the director determines, on or after December 15, 2010, that there are insufficient funds available in the Hospital Quality Assurance Revenue Fund to make all scheduled payments under Article 5.21 (commencing with Section 14167.1) by the end of the 2010 calendar year, he or she shall consult with representatives of the hospital community to develop an acceptable plan for making additional payments to providers in the first two quarters of 2011 to maximize the use of delinquent fee payments or other deposits or interest projected to become available in the fund after December 15, 2010, but before June 30, 2011.

(c) Nothing in this section shall require the department to continue to make payments under Article 5.21 (commencing with

Section 14167.1) if, after the consultation required under subdivision (b), the director determines in the exercise of his or her sole discretion that a workable plan for the continued payments cannot be developed.

(d) Subdivisions (b) and (c) shall be implemented only if and to the extent federal financial participation is available for continued supplemental payments to providers.

(e) If any payment or payments made pursuant to this section are found to be inconsistent with federal law, the department shall recoup the payments by means of withholding or any other available remedy.

(f) Nothing in this section shall be read as affecting the department's ongoing authority to continue, after December 31, 2010, to collect quality assurance fees imposed on or before December 31, 2010.

SEC. 334. Section 14182 of the Welfare and Institutions Code is amended to read:

14182. (a) (1) In furtherance of the waiver or demonstration project developed pursuant to Section 14180, the department may require seniors and persons with disabilities who do not have other health coverage to be assigned as mandatory enrollees into new or existing managed care health plans. To the extent that enrollment is required by the department, an enrollee's access to fee-for-service Medi-Cal shall not be terminated until the enrollee has been assigned to a managed care health plan.

(2) For purposes of this section:

(A) "Other health coverage" means health coverage providing the same full or partial benefits as the Medi-Cal program, health coverage under another state or federal medical care program, or health coverage under contractual or legal entitlement, including, but not limited to, a private group or indemnification insurance program.

(B) "Managed care health plan" means an individual, organization, or entity that enters into a contract with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.81 (commencing with Section 14087.96), Article 2.91 (commencing with Section 14089), or Chapter 8 (commencing with Section 14200).

(b) In exercising its authority pursuant to subdivision (a), the department shall do all of the following:

(1) Assess and ensure the readiness of the managed care health plans to address the unique needs of seniors or persons with disabilities pursuant to the applicable readiness evaluation criteria and requirements set forth in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 14087.48.

(2) Ensure the managed care health plans provide access to providers that comply with applicable state and federal laws, including, but not limited to, physical accessibility and the provision of health plan information in alternative formats.

(3) Develop and implement an outreach and education program for seniors and persons with disabilities, not currently enrolled in Medi-Cal managed care, to inform them of their enrollment options and rights under the demonstration project. Contingent upon available private or public dollars other than moneys from the General Fund, the department or its designated agent for enrollment and outreach may partner or contract with community-based, nonprofit consumer or health insurance assistance organizations with expertise and experience in assisting seniors and persons with disabilities in understanding their health care coverage options. Contracts entered into or amended pursuant to this paragraph shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and any implementing regulations or policy directives.

(4) At least three months prior to enrollment, inform beneficiaries who are seniors or persons with disabilities, through a notice written at no more than a ~~sixth grade~~ *sixth-grade* reading level, about the forthcoming changes to their delivery of care, including, at a minimum, how their system of care will change, when the changes will occur, and who they can contact for assistance with choosing a delivery system or with problems they encounter. In developing this notice, the department shall consult with consumer representatives and other stakeholders.

(5) Implement an appropriate cultural awareness and sensitivity training program regarding serving seniors and persons with disabilities for managed care health plans and plan providers and staff in the Medi-Cal Managed Care Division of the department.

(6) Establish a process for assigning enrollees into an organized delivery system for beneficiaries who do not make an affirmative selection of a managed care health plan. The department shall develop this process in consultation with stakeholders and in a

manner consistent with the waiver or demonstration project developed pursuant to Section 14180. The department shall base plan assignment on an enrollee's existing or recent utilization of providers, to the extent possible. If the department is unable to make an assignment based on the enrollee's affirmative selection or utilization history, the department shall base plan assignment on factors, including, but not limited to, plan quality and the inclusion of local health care safety net system providers in the plan's provider network.

(7) Review and approve the mechanism or algorithm that has been developed by the managed care health plan, in consultation with their stakeholders and consumers, to identify, within the earliest possible timeframe, persons with higher risk and more complex health care needs pursuant to paragraph (11) of subdivision (c).

(8) Provide managed care health plans with historical utilization data for beneficiaries upon enrollment in a managed care health plan so that the plans participating in the demonstration project are better able to assist beneficiaries and prioritize assessment and care planning.

(9) Develop and provide managed care health plans participating in the demonstration project with a facility site review tool for use in assessing the physical accessibility of providers, including specialists and ancillary service providers that provide care to a high volume of seniors and persons with disabilities, at a clinic or provider site, to ensure that there are sufficient physically accessible providers. Every managed care health plan participating in the demonstration project shall make the results of the facility site review tool publicly available on their Internet Web site and shall regularly update the results to the department's satisfaction.

(10) Develop a process to enforce legal sanctions, including, but not limited to, financial penalties, withholding of Medi-Cal payments, enrollment termination, and contract termination, in order to sanction any managed care health plan in the demonstration project that consistently or repeatedly fails to meet performance standards provided in statute or contract.

(11) Ensure that managed care health plans provide a mechanism for enrollees to request a specialist or clinic as a primary care provider. A specialist or clinic may serve as a primary care provider if the specialist or clinic agrees to serve in a primary care provider

role and is qualified to treat the required range of conditions of the enrollee.

(12) Ensure that managed care health plans participating in the demonstration project are able to provide communication access to seniors and persons with disabilities in alternative formats or through other methods that ensure communication, including assistive listening systems, sign language interpreters, captioning, pad and pencil, plain language or written translations and oral interpreters, including for those who are limited English-proficient, or non-English speaking, and that all managed care health plans are in compliance with applicable cultural and linguistic requirements.

(13) Ensure that managed care health plans participating in the demonstration project provide access to out-of-network providers for new individual members enrolled under this section who have an ongoing relationship with a provider if the provider will accept the health plan's rate for the service offered, or the applicable Medi-Cal fee-for-service rate, whichever is higher, and the health plan determines that the provider meets applicable professional standards and has no disqualifying quality of care issues.

(14) Ensure that managed care health plans participating in the demonstration project comply with continuity of care requirements in Section 1373.96 of the Health and Safety Code.

(15) Ensure that the medical exemption criteria applied in counties operating under Chapter 4.1 (commencing with Section 53800) or Chapter 4.5 (commencing with Section 53900) of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations are applied to seniors and persons with disabilities served under this section.

(16) Ensure that managed care health plans participating in the demonstration project take into account the behavioral health needs of enrollees and include behavioral health services as part of the enrollee's care management plan when appropriate.

(17) Develop performance measures that are required as part of the contract to provide quality indicators for the Medi-Cal population enrolled in a managed care health plan and for the subset of enrollees who are seniors and persons with disabilities. These performance measures may include measures from the Healthcare Effectiveness Data and Information Set (HEDIS) or measures indicative of performance in serving special needs

populations, such as the National Committee for Quality Assurance (NCQA) Structure and Process measures, or both.

(18) Conduct medical audit reviews of participating managed care health plans that include elements specifically related to the care of seniors and persons with disabilities. These medical audits shall include, but not be limited to, evaluation of the delivery model's policies and procedures, performance in utilization management, continuity of care, availability and accessibility, member rights, and quality management.

(19) Conduct financial audit reviews to ensure that a financial statement audit is performed on managed care health plans annually pursuant to the Generally Accepted Auditing Standards, and conduct other risk-based audits for the purpose of detecting fraud and irregular transactions.

(c) Prior to exercising its authority under this section and Section 14180, the department shall ensure that each managed care health plan participating in the demonstration project is able to do all of the following:

(1) Comply with the applicable readiness evaluation criteria and requirements set forth in paragraphs (1) to (8), inclusive, of subdivision (b) of Section 14087.48.

(2) Ensure and monitor an appropriate provider network, including primary care physicians, specialists, professional, allied, and medical supportive personnel, and an adequate number of accessible facilities within each service area. Managed care health plans shall maintain an updated, accurate, and accessible listing of a provider's ability to accept new patients and shall make it available to enrollees, at a minimum, by phone, written material, or Internet Web site.

(3) Assess the health care needs of beneficiaries who are seniors or persons with disabilities and coordinate their care across all settings, including coordination of necessary services within and, where necessary, outside of the plan's provider network.

(4) Ensure that the provider network and informational materials meet the linguistic and other special needs of seniors and persons with disabilities, including providing information in an understandable manner in plain language, maintaining toll-free telephone lines, and offering member or ombudsperson services.

(5) Provide clear, timely, and fair processes for accepting and acting upon complaints, grievances, and disenrollment requests,

including procedures for appealing decisions regarding coverage or benefits. Each managed care health plan participating in the demonstration project shall have a grievance process that complies with Section 14450, and Sections 1368 and 1368.01 of the Health and Safety Code.

(6) Solicit stakeholder and member participation in advisory groups for the planning and development activities related to the provision of services for seniors and persons with disabilities.

(7) Contract with safety net and traditional providers as defined in subdivisions (hh) and (jj) of Section 53810~~,~~ of Title 22 of the California Code of Regulations, to ensure access to care and services. The managed care health plan shall establish participation standards to ensure participation and broad representation of traditional and safety net providers within a service area.

(8) Inform seniors and persons with disabilities of procedures for obtaining transportation services to service sites that are offered by the plan or are available through the Medi-Cal program.

(9) Monitor the quality and appropriateness of care for children with special health care needs, including children eligible for, or enrolled in, the California Children Services Program, and seniors and persons with disabilities.

(10) Maintain a dedicated liaison to coordinate with each regional center operating within the plan's service area to assist members with developmental disabilities in understanding and accessing services and act as a central point of contact for questions, access and care concerns, and problem resolution.

(11) At the time of enrollment apply the risk stratification mechanism or algorithm described in paragraph (7) of subdivision (b) approved by the department to determine the health risk level of beneficiaries.

(12) (A) Managed ~~health~~ care *health* plans shall assess an enrollee's current health risk by administering a risk assessment survey tool approved by the department. This risk assessment survey shall be performed within the following timeframes:

(i) Within 45 days of plan enrollment for individuals determined to be at higher risk pursuant to paragraph (11).

(ii) Within 105 days of plan enrollment for individuals determined to be at lower risk pursuant to paragraph (11).

(B) Based on the results of the current health risk assessment, managed care health plans shall develop individual care plans for

higher risk beneficiaries that shall include the following minimum components:

(i) Identification of medical care needs, including primary care, specialty care, durable medical equipment, medications, and other needs with a plan for care coordination as needed.

(ii) Identification of needs and referral to appropriate community resources and other agencies as needed for services outside the scope of responsibility of the managed care health plan.

(iii) Appropriate involvement of caregivers.

(iv) Determination of timeframes for reassessment and, if necessary, circumstances or conditions that require redetermination of risk level.

(13) (A) Establish medical homes to which enrollees are assigned that include, at a minimum, all of the following elements, which shall be considered in the provider contracting process:

(i) A primary care physician who is the primary clinician for the beneficiary and who provides core clinical management functions.

(ii) Care management and care coordination for the beneficiary across the health care system including transitions among levels of care.

(iii) Provision of referrals to qualified professionals, community resources, or other agencies for services or items outside the scope of responsibility of the managed care health plan.

(iv) Use of clinical data to identify beneficiaries at the care site with chronic illness or other significant health issues.

(v) Timely preventive, acute, and chronic illness treatment in the appropriate setting.

(vi) Use of clinical guidelines or other evidence-based medicine when applicable for treatment of beneficiaries' health care issues or timing of clinical preventive services.

(B) In implementing this section, and the terms and conditions of the demonstration project, the department may alter the medical home elements described in this paragraph as necessary to secure the increased federal financial participation associated with the provision of medical assistance in conjunction with a health home, as made available under the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 ~~(Public Law~~ *(P.L.* 111-152), and codified in Section 1945 of Title

XIX of the federal Social Security Act. The department shall notify the appropriate policy and fiscal committees of the Legislature of its intent to alter medical home elements under this section at least five days in advance of taking this action.

(14) Perform, at a minimum, the following care management and care coordination functions and activities for enrollees who are seniors or persons with disabilities:

(A) Assessment of each new enrollee's risk level and health needs shall be conducted through a standardized risk assessment survey by means such as telephonic, Web-based, or in-person communication or by other means as determined by the department.

(B) Facilitation of timely access to primary care, specialty care, durable medical equipment, medications, and other health services needed by the enrollee, including referrals for any physical or cognitive barriers to access.

(C) Active referral to community resources or other agencies for needed services or items outside the managed care health plans responsibilities.

(D) Facilitating communication among the beneficiaries' health care providers, including mental health and substance abuse providers when appropriate.

(E) Other activities or services needed to assist beneficiaries in optimizing their health status, including assisting with self-management skills or techniques, health education, and other modalities to improve health status.

(d) Except in a county where Medi-Cal services are provided by a county organized health system, and notwithstanding any other provision of law, in any county in which fewer than two existing managed care health plans contract with the department to provide Medi-Cal services under this chapter, the department may contract with additional managed care health plans to provide Medi-Cal services for seniors and persons with disabilities and other Medi-Cal beneficiaries.

(e) Beneficiaries enrolled in managed care health plans pursuant to this section shall have the choice to continue an established patient-provider relationship in a managed care health plan participating in the demonstration project if his or her treating provider is a primary care provider or clinic contracting with the managed care health plan and agrees to continue to treat that beneficiary.

(f) The department, or as applicable, the California Medical Assistance Commission, may contract with existing managed care health plans to operate under the demonstration project to provide or arrange for services under this section. Notwithstanding any other provision of law, the department, or as applicable, the commission, may enter into the contract without the need for a competitive bid process or other contract proposal process, provided the managed care health plan provides written documentation that it meets all qualifications and requirements of this section.

(g) This section shall be implemented only to the extent that federal financial participation is available.

(h) (1) The development of capitation rates for managed care health plan contracts shall include the analysis of data specific to the seniors and persons with disabilities population. For the purposes of developing capitation rates for payments to managed care health plans, the director may require managed care health plans, including existing managed ~~health~~ care *health* plans, to submit financial and utilization data in a form, time, and substance as deemed necessary by the department.

(2) Notwithstanding Section 14301, the department may incorporate, on a one-time basis for a three-year period, a risk sharing mechanism in a contract with the local initiative health plan in the county with the highest normalized fee-for-service risk score over the normalized managed care risk score listed in Table 1.0 of the Medi-Cal Acuity Study Seniors and Persons with Disabilities (SPD) report written by Mercer Government Human Services Consulting and dated September 28, 2010. The Legislature finds and declares that this risk sharing mechanism will limit the risk of beneficial or adverse effects associated with a contract to furnish services pursuant to this section on an at-risk basis.

(i) Persons meeting participation requirements for the Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14590), may select a PACE plan if one is available in that county.

(j) Persons meeting the participation requirements in effect on January 1, 2010, for a Medi-Cal primary care case management (PCCM) plan in operation on that date, may select that PCCM plan or a successor health care plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2

(commencing with Section 1340) of Division 2 of the Health and Safety Code) to provide services within the same geographic area that the PCCM plan served on January 1, 2010.

(k) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. Prior to issuing any letter or similar instrument authorized pursuant to this section, the department shall notify and consult with stakeholders, including advocates, providers, and beneficiaries. The department shall notify the appropriate policy and fiscal committees of the Legislature of its intent to issue instructions under this section at least five days in advance of the issuance.

(*l*) Consistent with state law that exempts Medi-Cal managed care contracts from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, and in order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process is necessary for contracts entered into or amended pursuant to this section. The contracts and amendments entered into or amended pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and the requirements of State Administrative Management Manual Memo 03-10. The department shall make the terms of a contract available to the public within 30 days of the contract's effective date.

(m) In the event of a conflict between the terms and conditions of the approved demonstration project, including any attachment thereto, and any provision of this part, the terms and conditions shall control. If the department identifies a specific provision of this article that conflicts with a term or condition of the approved waiver or demonstration project, or an attachment thereto, the term or condition shall control, and the department shall so notify the appropriate fiscal and policy committees of the Legislature within 15 business days.

(n) In the event of a conflict between the provisions of this article and any other provision of this part, the provisions of this article shall control.

(o) Any otherwise applicable provisions of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section ~~14500)~~ *14590)* not in conflict with this article or with the terms and conditions of the demonstration project shall apply to this section.

(p) To the extent that the director utilizes state plan amendments or waivers to accomplish the purposes of this article in addition to waivers granted under the demonstration project, the terms of the state plan amendments or waivers shall control in the event of a conflict with any provision of this part.

(q) (1) Enrollment of seniors and persons with disabilities into a managed care health plan under this section shall be accomplished using a phased-in process to be determined by the department and shall not commence until necessary federal approvals have been acquired or until June 1, 2011, whichever is later.

(2) Notwithstanding paragraph (1), and at the director's discretion, enrollment in Los Angeles County of ~~Seniors~~ *seniors* and persons with disabilities may be ~~phased-in~~ *phased in* over a 12-month period using a geographic region method that is proposed by Los Angeles County subject to approval by the department.

(r) A managed care health plan established pursuant to this section, or under the terms and conditions of the demonstration project pursuant to Section 14180, shall be subject to, and comply with, the requirement for submission of encounter data specified in Section 14182.1.

(s) (1) Commencing January 1, 2011, and until January 1, 2014, the department shall provide the fiscal and policy committees of the Legislature with semiannual updates regarding core activities for the enrollment of seniors and persons with disabilities into managed care health plans pursuant to the pilot program. The semiannual updates shall include key milestones, progress towards the objectives of the pilot program, relevant or necessary changes to the program, submittal of state plan amendments to the federal Centers for Medicare and Medicaid Services, submittal of any federal waiver documents, and other key activities related to the mandatory enrollment of seniors and persons with disabilities into managed care health plans. The department shall also include

updates on the transition of individuals into managed care health plans, the health outcomes of enrollees, the care management and coordination process, and other information concerning the success or overall status of the pilot program.

(2) (A) The requirement for submitting a report imposed under paragraph (1) is inoperative on January 1, 2015, pursuant to Section 10231.5 of the Government Code.

(B) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(t) The department, in collaboration with the State Department of Social Services and county welfare departments, shall monitor the utilization and caseload of the In-Home Supportive Services (IHSS) program before and during the implementation of the pilot program. This information shall be monitored in order to identify the impact of the pilot program on the IHSS program for the affected population.

(u) Services under Section 14132.95 or 14132.952, or Article 7 (commencing with Section 12300) of Chapter 3 that are provided to individuals assigned to managed care health plans under this section shall be provided through direct hiring of personnel, contract, or establishment of a public authority or nonprofit consortium, in accordance with and subject to the requirements of Section 12302 or 12301.6, as applicable.

(v) The department shall, at a minimum, monitor on a quarterly basis the adequacy of provider networks of the managed care health plans.

(w) The department shall suspend new enrollment of seniors and persons with disabilities into a managed care health plan if it determines that the managed care health plan does not have sufficient primary or specialty providers to meet the needs of their enrollees.

SEC. 335. Section 14182.1 of the Welfare and Institutions Code is amended to read:

14182.1. (a) Beginning March 2011, the department shall convene a stakeholder workgroup to review the existing encounter, claims, and financial data submission process required by the department under managed care health plan contracts. The workgroup members shall be selected by the department and shall include interested representatives from Medi-Cal managed care

health plans, managed care health plan associations, hospitals, individual health care providers, physician groups, and consumer representatives. In reviewing the process, the department shall consider input from the stakeholder workgroup and develop data quality submission standards by October 2011.

(b) Beginning January 1, 2012, managed care health plans shall comply with the quality submission standards developed pursuant to subdivision (a) when submitting data to the department. The director may impose a penalty for each month that a managed care health plan fails to submit data in compliance with these standards. The penalty shall be in proportion to that plan's failure to comply with the data submission standards, as the director in his or her sole discretion determines, and in no event shall the penalty exceed 2 percent of the total monthly capitation rate for that plan ~~or alternative model~~.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. Prior to issuing any letter or similar instrument authorized pursuant to this section, the department shall notify and consult with stakeholders, including advocates, providers, and beneficiaries. The department shall notify the appropriate policy and fiscal committees of the Legislature of its intent to issue instructions under this section at least five days in advance of the issuance. If the department elects to adopt regulations, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 336. Section 15657.5 of the Welfare and Institutions Code, as amended by Section 5 of Chapter 64 of the Statutes of 2010, is amended to read:

15657.5. (a) Where it is proven by a preponderance of the evidence that a defendant is liable for financial abuse, as defined in Section 15610.30, in addition to compensatory damages and all other remedies otherwise provided by law, the court shall award to the plaintiff reasonable attorney's fees and costs. The term "costs" includes, but is not limited to, reasonable fees for the

services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(b) Where it is proven by a preponderance of the evidence that a defendant is liable for financial abuse, as defined in Section 15610.30, and where it is proven by clear and convincing evidence that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of the abuse, in addition to reasonable attorney's fees and costs set forth in subdivision (a), compensatory damages, and all other remedies otherwise provided by law, the limitations imposed by Section 377.34 of the Code of Civil Procedure on the damages recoverable shall not apply.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any punitive damages may be imposed against an employer found liable for financial abuse as defined in Section 15610.30. This subdivision shall not apply to the recovery of compensatory damages or attorney's fees and costs.

(d) Nothing in this section affects the award of punitive damages under Section 3294 of the Civil Code.

(e) Any money judgment in an action under this section shall include a statement that the damages are awarded based on a claim for financial abuse of an elder or dependent adult, as defined in Section 15610.30. If only part of the judgment is based on that ~~a~~ claim, the judgment shall specify what amount was awarded on that basis.

SEC. 337. Section 15910 of the Welfare and Institutions Code is amended to read:

15910. (a) Subject to federal approval of a demonstration project effective on or after November 1, 2010, the department shall, by no later than March 1, 2011, or alternatively, 180 days after federal approval of the demonstration project, whichever occurs later, authorize local CEED projects to provide scheduled health care services, consistent with the terms and conditions of the demonstration project, to uninsured adults 19 to 64, inclusive, years of age, who are not otherwise eligible for Medicare or Medi-Cal, with incomes up to 133 percent of the federal poverty level. To the extent federal financial participation is made available under the terms and conditions of the demonstration project and pursuant to Section 15910.1, CEED project services may be made

available to individuals with incomes between 134 through 200 percent of the federal poverty level.

(b) Eligible entities, consistent with the terms and conditions of the demonstration project, may perform outreach and enrollment activities to target populations, including, but not limited to, ~~the~~ people who are homeless, individuals who frequently use hospital inpatient or emergency department services for avoidable reasons, or people with mental health or substance abuse treatment needs.

(c) CEED projects shall be designed and implemented with the systems and program elements necessary to facilitate the transition of those eligible individuals to Medi-Cal coverage, or alternatively, to coverage through the California Health Benefit Exchange, by 2014, pursuant to state and federal law, and the terms and conditions of the demonstration project.

(d) The department shall authorize CEED projects that meet the requirements set forth in this part and the terms and conditions of the demonstration project.

(e) (1) By January 1, 2011, or alternatively, 60 days after federal approval of the demonstration project, whichever occurs later, the department shall notify all eligible entities of the opportunity to elect to implement a CEED project, the applicable requirements, and the process for submitting an application for department approval of a CEED project.

(2) The director shall approve or deny an eligible entity's CEED project application within 60 days of receipt of the application. If the director denies an application, the denial shall be in writing and shall specify the reasons therefor.

(3) Within 10 days of a denial by the director under this subdivision, a participating entity may submit a written request for reconsideration. The director shall respond in writing to a request for reconsideration within 20 days, confirming or reversing the denial, and specifying the reasons for the reconsidered decision.

(4) An approval of a CEED project may be effective retroactively, and shall be effective on the date specified in the application, so long as the effective date is consistent with the terms and conditions of the demonstration project. If the eligible entity had in operation a Health Care Coverage Initiative program under Part 3.5 (commencing with Section 15900) as of August 31, 2010, and the eligible entity elects to continue funding the program, then the existing Health Care Coverage Initiative program shall,

to the extent permitted by the terms and conditions of the demonstration project, remain in effect until the CEED project is effective, but no later than 180 days after the department provides notice to eligible entities pursuant to this subdivision.

(f) Services provided pursuant to this part shall be available to those eligible, uninsured individuals enrolled in ~~the~~ *an* applicable CEED project, subject to the limitations of this part and the terms and conditions of the demonstration project. However, nothing in this part is intended to create an entitlement program of any kind.

(g) Each CEED project shall establish an income eligibility standard for individuals to enroll in the CEED project, which shall be expressed as a percentage between 0 and 133 of the federal poverty level. Notwithstanding the established eligibility standard, a CEED project may impose a limit on enrollment in the CEED project, which shall be subject to all of the following provisions:

(1) The special terms and conditions required by the federal Centers for Medicare and Medicaid Services for the approval of the demonstration project described in Section 14180 permit a limitation on enrollment in a CEED project.

(2) Any enrollment limitation by a CEED project shall be administered in accordance with the special terms and conditions required by the federal Centers for Medicare and Medicaid Services.

(3) Any enrollment limitation by a CEED project is subject to approval by the director.

(4) Prior to applying for approval from the director, the CEED project shall submit to the director a resolution from the county board of supervisors in which the CEED project is located approving the proposed limitation on enrollment by the CEED project.

(h) CEED projects shall be established and implemented only to the extent that federal financial participation is available and only to the extent that available federal financial participation is not jeopardized.

(i) For the purposes of operating a CEED project approved under this part, and notwithstanding Section 14181, participating entities shall be exempt from the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, shall not be considered Medi-Cal managed care health plans subject to the requirements applicable to the two-plan model and

geographic managed care plans, as contained in Article 2.7 (commencing with Section 14087.3), Article 2.81 (commencing with Section 14087.96) and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 1 and the corresponding regulations, and shall not be considered prepaid health plans as defined in Section 14251.

SEC. 338. Section 15910.2 of the Welfare and Institutions Code is amended to read:

15910.2. (a) The department shall approve any CEED project that meets both of the following requirements and any additional requirements imposed by the terms and conditions of the demonstration project:

(1) Is proposed by an eligible entity that voluntarily agrees to commit, on an annual basis, to provide the nonfederal share of CEED project expenditures for services to individuals who meet the income eligibility standards specified for the CEED project.

(2) Includes the CEED project elements set forth in subdivision (b).

(b) An approved CEED project shall include all of the following elements, subject to the terms and conditions of the demonstration project:

(1) Development of standardized eligibility and enrollment procedures that interface with Medi-Cal processes according to the milestones developed in consultation with the counties, county health departments, public hospitals, and county human service departments. CEED projects shall migrate to the standardized procedures in accordance with the terms and conditions of the demonstration project. If authorized under the terms and conditions of the demonstration project, eligibility for CEED benefits may be provided retroactively for any of the three months prior to the enrollment date in which the individual would have been found eligible had he or she applied during that month. If an individual is determined to be retroactively eligible, CEED project coverage for the retroactive period shall be limited to those services provided within the approved CEED project network.

(2) (A) Assignment of eligible individuals to a medical home. For purposes of this paragraph and subject to the terms and conditions of the demonstration project, “medical home” means a single provider, facility, or health care team that maintains an individual’s medical information, and coordinates health care

services for enrolled individuals. The medical home shall provide, at a minimum, all of the following elements, which shall be considered in the *provider* contracting process:

(i) A primary health care contact who facilitates the enrollee's access to preventive, primary, specialty, mental health, or chronic illness treatment, as appropriate.

(ii) An intake assessment of each new enrollee's general health status.

(iii) Referrals to qualified professionals, community resources, or other agencies as needed.

(iv) Care coordination for the beneficiary across the service delivery system, as agreed to between the medical home and the CEED project. This may include facilitating communication among enrollee's health care providers, including appropriate outreach to mental health providers.

(v) Care management, case management, and transitions among levels of care, if needed and as agreed to between the medical home and the CEED project.

(vi) Use of clinical guidelines and other evidence-based medicine when applicable for treatment of the enrollee's health care issues and timing of clinical preventive services.

(vii) Focus on continuous improvement in quality of care.

(viii) Timely access to qualified health care interpretation as needed and as appropriate for enrollees with limited English proficiency, as determined by applicable federal guidelines.

(ix) Health information, education, and support to beneficiaries and, where appropriate, their families, if and when needed, in a culturally competent manner.

(B) In implementing this section, and the terms and conditions of the demonstration project, the department may alter the medical home elements described in this paragraph as necessary to secure the increased federal financial participation associated with the provision of medical assistance in conjunction with a health home, as made available under the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 ~~(Public Law~~ *(P.L.* 111-152), and codified in Section 1945 of Title XIX of the federal Social Security Act.

(3) A scheduled package of services required under the terms and conditions of the demonstration project that shall be limited

to those services provided within an approved CEED project's provider network and service delivery system.

(4) A provider network and service delivery system that seeks to promote the viability of the existing safety net health care system that serves the population to be covered by the CEED project. The provider network and service delivery system shall meet the standards established in the terms and conditions of the demonstration project.

(5) Development of an outreach and enrollment plan that reaches potential project enrollees and begins to prepare to transition eligible individuals to Medi-Cal coverage in 2014, or alternatively, to coverage through the California Health Benefit Exchange.

(6) A quality measurement and quality monitoring system.

(7) Data tracking systems to provide the department with required data for quality monitoring, quality improvement, and evaluation.

(8) Demonstration of how the CEED project will provide consumer assistance to individuals applying for, participating in, or accessing, services in the CEED projects, including the availability of materials that provide information on all of the following:

(A) The scope of covered services.

(B) The exceptions, reductions, and limitations that apply to covered services.

(C) Any premium, copayment, or deductible requirements that may be incurred by the enrollee.

(D) The participating providers in the CEED project network.

(E) The medical homes within the CEED project network from which the enrollee may select.

(F) The CEED project's telephone number or numbers that may be used by an enrollee to receive additional information about the covered services or participating providers.

(9) Ability to meet program requirements, standards, and performance measurements developed by the department, in consultation with participating counties, for the CEED projects.

SEC. 339. Section 15911 of the Welfare and Institutions Code is amended to read:

15911. (a) Funding for each CEED project shall be based on all of the following:

(1) The amount of funding that the participating entity voluntarily provides for the nonfederal share of CEED project expenditures.

(2) Any limitations imposed by the terms and conditions of the demonstration project.

(3) Whether additional funds are allocated to the CEED projects under Section 15910.1 for services to individuals with incomes between 134 and 200 percent of the federal poverty level.

(4) Whether funding under this part would result in the reduction of other payments under the demonstration project.

(b) Nothing in this part shall be construed to require a political subdivision of the state to participate in the program of CEED projects as set forth in this part, and those local funds expended or transferred for the nonfederal share of CEED project expenditures under this part shall be considered voluntary contributions for purposes of the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 ~~(Public Law~~ *(P.L.* 111-152), and the federal American Recovery and Reinvestment Act of 2009 ~~(Public Law~~ *(P.L.* 111-5), as amended by the federal Patient Protection and Affordable Care Act.

(c) No state General Fund moneys shall be used to fund CEED project services, nor to fund any related administrative costs incurred by counties or any other political subdivision of the state.

(d) Subject to the terms and conditions of the demonstration project, if a participating entity elects to fund the nonfederal share of a CEED project, the nonfederal funding and payments to the CEED project shall be provided through one of the following mechanisms, at the ~~options~~ *option* of the participating entity:

(1) On a quarterly basis, the participating entity shall transfer to the department for deposit in the CEED Project Fund established for the participating counties and pursuant to subparagraph (A), the amount necessary to meet the nonfederal share of estimated payments to the CEED project for the next quarter under subdivision (g) Section 15910.3.

(A) The CEED Project Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the department for the purposes specified in this part. The fund shall

contain all moneys deposited into the fund in accordance with this paragraph.

(B) The department shall obtain the related federal financial participation and pay the rates established under Section 15910.3, provided that the intergovernmental transfer is transferred in accordance with the deadlines imposed under the Medi-Cal Checkwrite Schedule, no later than the next available warrant release date. This payment shall be a nondiscretionary obligation of the department, enforceable under a writ of mandate pursuant to Section 1085 of the Code of Civil Procedure. Participating entities may request expedited processing within seven business days of the transfer as made available by the State ~~Controllers~~ *Controller's* Office, provided that the participating entity prepay the department for the additional administrative costs associated with the expedited processing.

(C) Total quarterly payment amounts shall be determined in accordance with estimates of the number of enrollees in each rate category, subject to annual reconciliation to final enrollment data.

(2) If a participating entity operates its CEED project through a contract with another entity, the participating entity may pay the operating entity based on the per enrollee rates established under Section 15910.3 on a quarterly basis in accordance with estimates of the number of enrollees in each rate category, subject to annual reconciliation to final enrollment data.

(A) (i) On a quarterly basis, the participating entity shall certify the expenditures made under this paragraph and submit the report of certified public expenditures to the department.

(ii) The department shall report the certified public expenditures of a participating entity under this paragraph on the next available quarterly report as necessary to obtain federal financial participation for the expenditures. The total amount of federal financial participation associated with the participating entity's expenditures under this paragraph shall be paid to the participating entity.

(B) At the option of the participating entity, the CEED project may be reimbursed on a cost basis in accordance with the methodology applied to Health Care Coverage Initiative programs established under Part 3.5 (commencing with Section 15900) including interim quarterly payments.

(e) Notwithstanding Section 15910.3 and subdivision (d) of this section, if the participating entity cannot reach an agreement with the department as to the appropriate rate to be paid under Section 15910.3, at the option of the participating entity, the CEED project shall be reimbursed on a cost basis in accordance with the methodology applied to Health Care Coverage Initiative programs established under Part 3.5 (commencing with Section 15900), including interim quarterly payments. If the participating entity and the department reach an agreement as to the appropriate rate, the rate shall be applied no earlier than the first day of the CEED project year in which the parties agree to the rate.

(f) If authorized under the terms and conditions of the demonstration project, pending the department's development of rates in accordance with Sections 15910.3, the department shall make interim quarterly payments to approved CEED projects for expenditures based on estimated costs submitted for rate setting.

(g) Participating entities that operate a CEED project directly or through contract with another entity shall be entitled to any federal financial participation available for administrative expenditures incurred in the operation of the Medi-Cal program or the demonstration project, including, but not limited to, outreach, screening and enrollment, program development, data collection, reporting and quality monitoring, and contract administration, but only to the extent that the expenditures are allowable under federal law and only to the extent the expenditures are not taken into account in the determination of the per enrollee rates under Section 15910.3.

(h) On and after January 1, 2014, the state shall implement comprehensive health care reform for the populations targeted by the CEED in compliance with federal health care reform law, regulation, and policy, including the federal Patient Protection and Affordable Care Act ~~(Public Law~~ *(P.L.* 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 ~~(Public Law~~ *(P.L.* 111-152), and subsequent amendments.

(i) Participation in the CEED projects under this article is voluntary on the part of the county or counties for purposes of all applicable federal laws. As part of its voluntary participation under this article, the county or counties shall agree to reimburse the state for the nonfederal share of state staffing or administrative costs directly attributable to the cost of administering that county

or counties' CEED project. This section shall be implemented only to the extent federal financial participation is not jeopardized.

SEC. 340. Section 18293 of the Welfare and Institutions Code is amended to read:

18293. (a) In order to be eligible for funding pursuant to this chapter, a domestic violence shelter-based program shall demonstrate its ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources that may be used to augment any state or county funds appropriated for the purposes of this chapter. Each domestic violence shelter-based program shall make every attempt to qualify the domestic violence shelter-based program for any available federal funding.

(b) No provision of this section is intended to prohibit domestic violence shelter-based programs receiving funds pursuant to this chapter from receiving additional funds from any other public or private source. Funds provided pursuant to this chapter shall not be used to reduce the financial support from other public or private sources.

(c) Proposed or existing domestic violence shelter-based programs that meet the requirements set forth in Section 18294, shall receive funding pursuant to this chapter upon the approval of the local board of supervisors.

(d) Funding shall be given to agencies and organizations whose primary function is to administer domestic violence shelter-based programs. Any additional fees received by Alameda County, Contra Costa County, Solano County, and the City of Berkeley at the time of issuance of a marriage license pursuant to Sections 18308, 18309, ~~and~~ 18309.5, *and 18309.6* that are in excess of the twenty-three dollar ($23) fee collected pursuant to this act, shall be available to that city or county for funding domestic violence programs other than domestic violence shelter-based programs.

(e) Prior to approving a domestic violence shelter-based program or programs for this funding, the board shall consult with individuals and groups that have expertise in the problems of domestic violence and in the operation of domestic violence shelter-based programs including operations of existing domestic violence shelter-based programs.

(f) Upon approving one or more domestic violence shelter-based programs for funding, the board shall direct the county treasurer

to disburse moneys from the county's domestic violence shelter-based program special fund and for funding, the board shall designate a local agency to monitor the domestic violence shelter-based program or programs. This monitoring shall include information regarding the number of persons requesting services, the number of persons receiving services according to the type of services provided, and the need, if any, for additional services or staffing.

(g) Programs that receive funding through this chapter shall, to the extent feasible, provide services to persons with a physical disability who are victims of domestic violence. If the program cannot provide the services, then the program's staff, to the extent feasible, shall assist in referring the person with a physical disability to other programs and services in the community where assistance may be obtained.

(h) The process to determine eligibility of a domestic violence shelter-based program to receive funding pursuant to this chapter shall have as its primary purpose to ascertain that the program meets the service requirements of Section 18294. The process shall be expedient and shall include a mechanism for annual recertification.

(i) Funding obtained pursuant to this chapter is for the unrestricted use of a recipient domestic violence shelter-based program, and may be used for direct and indirect costs.

SEC. 341. Section 18951 of the Welfare and Institutions Code is amended to read:

18951. As used in this chapter:

(a) "Child" means an individual under 18 years of age.

(b) "Child services" means services for or on behalf of children, and includes the following:

(1) Protective services.

(2) Caretaker services.

(3) Day care services, including dropoff care.

(4) Homemaker services or family aides.

(5) Counseling services.

(c) "Adult services" means services for or on behalf of a parent of a child, which shall include, but not be limited to, the following:

(1) Access to voluntary placement, long or short term.

(2) Counseling services before and after a crisis.

(3) Homemaker services or family aides.

(d) "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases and who are qualified to provide a broad range of services related to child abuse or neglect. The team may include, but need not be limited to, any of the following:

(1) Psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel.

(2) Police officers or other law enforcement agents.

(3) Medical personnel with sufficient training to provide health services.

(4) Social workers with experience or training in child abuse prevention, identification, management, or treatment.

(5) A public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.

(6) A CalWORKs case manager~~,~~ whose primary responsibility is to provide cross program case planning and coordination of CalWORKs and child welfare services for those mutual cases or families that may be eligible for CalWORKs services and that, with the informed written consent of the family, receive cross program case planning and coordination.

(e) "Child abuse" as used in this chapter means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 years by a person who is responsible for the child's welfare under circumstances that indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition that results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(f) "Parent" means any person who exercises care, custody, and control of the child as established by law.

SEC. 342. Section 18987.7 of the Welfare and Institutions Code is amended to read:

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited to, representatives of the department and of the State Department of Mental Health, the State Department of Education, the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision ~~(b)~~ *(c)* of Section 18987.72 shall be utilized.

(d) By July 1, 2014, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.

SEC. 343. Section 2 of Chapter 166 of the Statutes of 2009 is amended to read:

Sec. 2. (a) The Director of General Services may dispose of all or any portion of approximately 85 acres located at the East Campus of the Agnews Developmental Center in Santa Clara County in accordance with Section 11011.1 of the Government Code.

(b) After the East Campus property has been made available to public entities pursuant to Section 11011.1 of the Government Code, and after meeting any other contractual obligations, the remaining East Campus property, if any, shall be made available to the public pursuant to Section 11011.1 of the Government Code. The *State* Office of Historic Preservation shall determine the historic resources at the East Campus property and advise the ~~department~~ *Department of General Services* of any economically feasible opportunities to reuse the historic resources.

(c) The resolution or mitigation of any disputes or claims related to the land lease agreement and the energy purchase agreement between the state and Agnews Developmental Center Cogeneration Facility, dated December 31, 1990, shall be a cost of sale of all the property authorized to be disposed of at the East Campus. The department may utilize funds from sales of this property for the resolution or mitigation of these disputes or claims.

SEC. 344. Section 1 of Chapter 191 of the Statutes of 2010 is amended to read:

Section 1. (a) The City of Los Angeles may transfer to the Los Angeles Unified School District parkland known as the Vernon Branch Library Pocket Park and the facilities on that land, if ~~the~~ all of the following conditions are met:

(1) The city complies with Section 5096.343 of the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act) (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code), and submits to the Department of Parks and Recreation a copy of the recorded deed and title policy for, and map of, the substitute parkland.

(2) The city submits to the department a revised map of Vernon Branch Library Pocket Park, with the revised acreage.

(3) The city enters into an agreement with the Los Angeles Unified School District that identifies the parcels in the city that

will be acquired and developed as substitute parkland and the facilities that will be constructed on the substitute parkland.

(4) The city provides a detailed land plan that shows the following:

(A) The specific parcels of Vernon Branch Library Pocket Park that will be transferred to the Los Angeles Unified School District.

(B) The parcels in the city that will be acquired and developed as substitute parkland.

(C) The facilities that will be constructed on the substitute parkland.

(D) A demonstration that there is no net loss in park acreage as a result of the transfer pursuant to this section.

(5) The transferred property is used only for a school facility.

(6) The city ensures that the substituted parkland is developed and dedicated in perpetuity for park purposes.

(7) At least 45 days prior to transferring the property, the city adopts an ordinance at a public meeting that does all of the following:

(A) Identifies the Vernon Branch Library Pocket Park parcels that are to be transferred to the school district, and the parcels that the city will acquire to replace the transferred property.

(B) Makes a finding that the replacement property used as a substitute parkland has a value that equals the amount of the grant used to acquire the property known as the Vernon Branch Library Pocket Park, the fair market value of that real property, or the proceeds from the sale or other disposition, whichever is greater.

(C) Makes a finding that the replacement parcels and facilities will be provided or paid for by the school district and will have acreage that is equal to or larger than the acreage of the Vernon Branch Library Pocket Park parcels transferred to the school district.

(D) Makes a finding that the transfer does not diminish the environmental integrity or recreational value of Vernon Branch Library Pocket Park.

(E) Makes a finding that the replacement parcels, including facilities, will provide an equivalent or higher level of recreational and environmental service to the current users of Vernon Branch Library Pocket Park.

(F) Makes a finding that the replacement parcels and facilities are in addition to existing city property.

(G) Makes a finding that the city has obtained all required state and federal approvals for the transfer of the Vernon Branch Library Pocket Park parcels to the school district.

(b) The transfer pursuant to subdivision (a) shall not occur until the department determines that all of the conditions set forth in subdivision (a) have been met.

SEC. 345. Section 2 of Chapter 251 of the Statutes of 2010 is amended to read:

Sec. 2. (a) It is the intent of the Legislature to recognize the historical and architectural significance of the California Memorial Stadium located on the University of California, Berkeley, campus. Furthermore, the Legislature recognizes that the Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code) provides an exemption process for local historical structures through the local planning process; however, buildings owned by the state, including the University of California, are not subject to the local planning process and therefore cannot use this process to obtain an exemption.

~~(b)~~

(b) The Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code) shall not apply to the California Memorial Stadium located on the University of California, Berkeley, campus. However, the Legislature finds and declares that the California Memorial Stadium located on the University of California, Berkeley, campus requires seismic retrofitting, as defined in Section 8894.2 of the Government Code, which is necessary to strengthen structures and provide increased resistance to ground shaking from an earthquake.

(c) This section does not conflict with the intent or the applicability of any provision of the Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code).

SEC. 346. Section 1 of Chapter 321 of the Statutes of 2010 is amended to read:

Section 1. (a) The Legislature authorizes, pursuant to paragraph (2) of subdivision (a) of Section 5919 of the Public Resources Code, the County of San Bernardino to sell or exchange property it owns within the Chino Agricultural Preserve that was purchased

with grant funds provided pursuant to the California Wildlife, Coastal, and Park Land Conservation Act (Division 5.8 (commencing with Section 5900) of the Public Resources Code), provided that the sale or exchange satisfies the original purposes of the grant agreement between the county and department, except as modified by paragraph (1), the conditions of subdivision (b) of Section 5919 of the Public Resources Code, and all of the following conditions:

(1) The County of San Bernardino shall preserve all lands and conservation easements acquired or dedicated as authorized by this subdivision in perpetuity for agricultural preservation, including community gardens, agricultural heritage projects, agricultural and wildlife education or wildlife habitat, or for open-space conservation purposes.

(2) By April 1, 2011, the County of San Bernardino shall place a deed restriction on each property it acquired with grant funds from the California Wildlife, Coastal, and Park Land Conservation Act. The deed restriction shall be written for the purposes set forth in paragraph (1) ~~of this subdivision~~. Each deed restriction shall be recorded with the county recorder. Each deed restriction shall be in effect until either a conservation easement is recorded on the property, pursuant to subparagraph (A) of paragraph (2) of subdivision (c), or until the County of San Bernardino sells or exchanges the property.

(3) The County of San Bernardino satisfies all conditions in paragraphs (1) and (2) of subdivision (c) that are necessary to develop and implement the adopted plan.

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

(1) “County” means the County of San Bernardino.

(2) “Board” means the Board of Supervisors for the County of San Bernardino.

(3) “Department” means the California Department of Parks and Recreation.

(4) “Plan” means the detailed land plan that is prepared to show the existing and proposed disposition of lands purchased by the County of San Bernardino in the Chino Agricultural Preserve with funds from the California Wildlife, Coastal, and Park Land Conservation Act (Division 5.8 (commencing with Section 5900) of the Public Resources Code).

(5) "Grant funds" means the grant that was made to the County of San Bernardino from the California Department of Parks and Recreation provided pursuant to the California Wildlife, Coastal, and Park Land Conservation Act (Division 5.8 (commencing with Section 5900) of the Public Resources Code).

(6) "Preserve" means the Chino Agricultural Preserve as defined by the boundaries of the 14,000-acre Chino Agricultural Preserve as it existed on June 8, 1988, and includes property surrounding the Chino airport.

(c) (1) The county shall not sell, exchange, or otherwise acquire replacement land or conservation easements pursuant to this section unless and until the board adopts a detailed land plan by December 31, 2011. The adopted plan shall meet all of the following conditions:

(A) ~~It~~ *The plan* identifies each parcel of property acquired with grant funds and shows which specific parcels the county will sell, exchange, purchase, or retain.

(B) For each parcel to be sold, exchanged, purchased, or retained, ~~it~~ *the plan* identifies whether the parcel will be acquired or retained in fee title or as a conservation easement.

(C) To the extent feasible and practical, the plan will maximize the connectivity of lands for the purposes set forth in paragraph (1) of subdivision (a).

(D) If the plan results in any net loss in acreage or habitat value of protected land in comparison to what was purchased with grant funds, the plan shall identify the additional replacement land within the preserve that the county shall acquire or dedicate to compensate for that loss.

(E) An environmental review accompanies the land plan.

(F) The land plan was provided to the department for its review and approval no less than 90 days prior to the county's adoption. The land plan ~~must~~ *shall* be approved by the department before it can be approved by the board. If the department does not approve or disapprove the land plan within 45 days of receipt, it ~~must~~ *shall* provide written comments to the county setting forth its concerns or suggested modifications to the county that could lead to the department's approval if the land plan was accordingly modified.

(G) The county holds a public hearing before the board for the purpose of reviewing the land plan and taking public comment. The hearing shall be scheduled for a specific time during a regularly

scheduled meeting of the board, and shall be separately noticed and publicized.

(H) The land plan and environmental review demonstrate that there is no net loss in acreage or habitat value as a result of implementation of the plan.

(I) The initial land plan approved by the county and the department may be amended from time to time by the county so long as it follows the same steps required for approving the initial plan, including approval by the department.

(2) To implement the adopted land plan, the county shall take the following steps, which are required to fulfill the adopted land plan as well as any other actions that may be necessitated by the land plan:

(A) By April 1, 2012, the county shall record a conservation easement for the purposes set forth in paragraph (1) of subdivision (a) on each property identified for retention in the adopted plan.

(B) Within 90 days of the acquisition of any property in fee title, the county shall record a conservation easement on the property for the purposes set forth in paragraph (1) of subdivision (a).

(C) If the plan identifies a net loss in acreage or habitat value of protected lands, the county shall acquire or dedicate additional replacement land or conservation easements within the preserve to compensate for that loss no later than one year following the sale of the last property to be disposed. Any conservation easement shall be for the purposes set forth in paragraph (1) of subdivision (a).

(D) If the county acquires a conservation easement through purchase or exchange in furtherance of the plan, the conservation easement shall be for the purposes set forth in paragraph (1) of subdivision (a).

(E) Prior to closing any real property transactions with respect to the land plan, the county shall submit independent appraisals of the land to be sold or exchanged and the land to be acquired to the department for concurrence with state appraisal standards. The county and department shall make these appraisals available to the public no later than 60 days following the sale or exchange of the last property to be disposed.

(F) Before recordation, each conservation easement shall be approved by the department. Each conservation easement shall be

in perpetuity. The department shall review and approve or disapprove each conservation easement within 60 days of receipt from the county. If the department disapproves the conservation easement, it shall provide the reasons in writing to the county.

(d) (1) After the approved land plan is fully implemented, the county shall provide a report to the department on all expenditures and revenues from all of the sales or exchanges of land under the land plan, on the acreages of all lands or easements sold, exchanged, and held, and on any funds from all of the sales or exchanges of land under the land plan that have not been expended. If there are unexpended proceeds from the sales or exchanges of land under the land plan, the county may propose a plan to the department for the expenditure of these funds for the acquisition of land or easements, or capital improvements to land or easements purchased with grant funds.

(2) With the exception of revenues from the sale or exchange of land, the county may use all income generated from the properties it owns within the preserve that were purchased with grant funds, or that were acquired by exchange or purchase as authorized herein, for the acquisition of additional replacement land within the preserve pursuant to the land plan or for the improvement, operation, and maintenance of existing or replacement land within the preserve.

(3) All proposed uses of the funds from the sales or exchanges of land shall be approved by the department and be eligible expenditures under the California Wildlife, Coastal, and Park Land Conservation Act (Division 5.8 (commencing with Section 5900) of the Public Resources Code).

(e) If the county fails to adopt a detailed land plan by December 31, 2011, that satisfies the criteria outlined in this section, it may apply to the department to extend the deadline specified in subdivision (c) to a specific different date. Elements or requirements of the land plan shall not be eliminated or substantively modified as part of the extension. The department shall review and approve or disapprove the request to extend the deadline within 60 days of receipt from the county. If the department disapproves the request for extension or modifies the requested date of the extension, it shall provide the reasons in writing to the county. If the county does not apply for an extension of the deadline or the department does not approve an amendment,

the county shall record a conservation easement on all lands purchased within the preserve with grant funds no later than June 1, 2012. Before recordation, each conservation easement shall be approved by the department. Each conservation easement shall be for the purposes set forth in paragraph (1) of subdivision (a), and each shall be in perpetuity. The department shall review and approve or disapprove each conservation easement within 60 days of receipt from the county. If the department disapproves the conservation easement, it shall provide the reasons in writing to the county.

(f) This section does not exempt the county from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 347. Section 2 of Chapter 377 of the Statutes of 2010 is amended to read:

Sec. 2. (a) There is hereby granted and conveyed in trust to the City of Long Beach in the County of Los Angeles all the right, title, and interest of the State of California in certain trust lands, acquired and held by the state, subject to the common law public trust and the city's statutory trust, pursuant to the agreement that was approved as Calendar Item 8 of the June 5, 1991, State Lands Commission meeting, which are further described as follows:

(1) Southern Parcel, which consists of land described as follows:

Southern parcel

Description: The land referred to herein is situated in the County of Los Angeles, State of California, and is described as follows:

That certain parcel of land, in the City of Long Beach, described as follows:

Beginning at the intersection of the easterly prolongation of the northerly line of lot "e" as shown on map of ocean front of the City of Long Beach, recorded in book 39 pages 18 to 33, inclusive of miscellaneous records, in the office of the county recorder of said county, and a line parallel with and 50.00 feet easterly of the easterly lines of lots "e" and "k" of said ocean front of the City of Long Beach; thence along said parallel line, South 00°05'02" East, 405.24 feet; thence South 89°54'58" West, 69.85 feet; thence South 00°05'02" East, 40.00 feet to the true point of beginning; thence North 89°54'58" East, 38.57 feet to a point on a nontangent curve concave to the southwest and having a radius of 29.50 feet, a radial

line through said point bears North 47°13'55" East; thence southerly along said curve through a central angle of 38°56'41" an arc distance of 20.05 feet; thence South 03°49'24" East 56.57 feet to the southerly line of that particular parcel of land described in deed recorded in book 44843, page 136 of official records in the office of said county recorder; thence along said southerly line North 89°18'18" West, 231.02 feet; thence North 52°02'37" East, 27.08 feet to the beginning of a curve concave southeasterly having a radius of 260.00 feet; thence northeasterly along said curve through a central angle of 37°52'21" an arc distance of 171.86 feet to the true point of beginning.

Except that portion shown as Pine Avenue on map of said ocean front of the City of Long Beach.

Also except that portion of said land lying easterly of the easterly line of said lot “k” and/or its southerly prolongation; and

(2) Street Parcel, which consists of land described as follows:

Street parcel

Description: A parcel of land in the City of Long Beach, in the County of Los Angeles, State of California, described as follows:

Beginning at the intersection of the easterly prolongation of the northerly line of lot “e” as shown on the map of ocean front of the City of Long Beach, recorded in book 39 pages 18 to 33, inclusive of miscellaneous records, in the office of the county recorder of said county, and a line parallel with and 50.00 feet easterly of the easterly lines of lots “e” and “k” of said ocean front of the City of Long Beach; thence along said parallel line South 00°05'02" East, 405.24 feet; thence South 89°54'58" West, 69.85 feet; thence South 00°05'02" East, 40.00 feet; thence North 89°54'58" East, 19.85 feet more or less to the southerly prolongation of the East line of said lot “k”, being the true point of beginning; thence North 89°54'58" East 40 feet to the easterly line of the parcel of land described in deed recorded in book 44843, page 136 of official records in the office of the county recorder of said county; thence southerly along said easterly line 74.66 feet more or less to the southeasterly corner of said described parcel of land; thence along the southerly line thereof North 89°18'18" West 40 feet to the southerly prolongation of the east line of said lot “k”; thence North 00°05'02" West 74.12 feet more or less to the true point of beginning.

(b) The lease of the lands described in subdivision (a), designated as PRC 7545, from the State Lands Commission to the City of Long Beach shall terminate on January 1, 2011.

(c) The City of Long Beach shall hold, operate, and manage, in trust for the benefit of the statewide public, the public trust lands described in subdivision (a) in accordance with the common law public trust doctrine and the terms, trusts, and conditions set forth in Chapter 676 of the Statutes of 1911, Chapter 102 of the Statutes of 1925, Chapter 158 of the Statutes of 1935, and Chapter 138 of the Statutes of 1964 (First Extraordinary Session), as amended.

SEC. 348. Section 3 of Chapter 431 of the Statutes of 2010 is amended to read:

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

In order to implement, as soon as possible, the provisions of Senate Bill ~~No.~~ 702 of the 2009–10 Regular Session of the Legislature ensuring background checks for ancillary ~~daycare~~ *day care* providers, it is necessary that this act take effect immediately.

SEC. 349. Section 2 of Chapter 716 of the Statutes of 2010 is amended to read:

Sec. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because ~~of the California Constitution because~~ of the unique transportation funding needs in the County of Fresno.

SEC. 350. Section 173 of Chapter 717 of the Statutes of 2010 is amended to read:

Sec. 173. The State Department of Health Care Services shall provide the fiscal and appropriate policy committees of the Legislature with semiannual updates regarding all of California's Medicaid waivers to be provided in March and October of each year. At a minimum, the semiannual updates shall include a listing of all Medicaid waivers with all of the following information for each ~~waived~~ *waiver*:

(a) Description of what federal laws or regulations are being waived.

(b) Description of the purpose of the ~~wavier~~ *waiver*.

(c) Description of whom the waiver serves and the number of enrollees.

(d) Status of the waiver, including its expiration date and pending renewal dates where applicable.

(e) State plan amendment number listing and date that is applicable to the waiver.

(f) Department that administers the program.

(g) Any other information deemed useful by the department, including any separate attachments or reports on a particular waiver.

SEC. 351. Any section of any act enacted by the Legislature during the 2011 calendar year that takes effect on or before January 1, 2012, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2011 calendar year and takes effect on or before January 1, 2012, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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